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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
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3 UNITED STATES OF AMERICA,

4 v.

23 Cr. 490 (SHS)

5 ROBERT MENENDEZ,
6 WAEL HANA, a/k/a "Will Hana,"
and FRED DAIBES,

7 Defendants.

Trial

9 New York, N.Y.
10 May 15, 2024
11 12:15 p.m.

12 Before:

13 HON. SIDNEY H. STEIN,

14 District Judge
15 -and a Jury-

16 APPEARANCES

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Southern District of New York

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Interpreters (Arabic)20 Rachel Wechsler
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Braden Florczyk
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23 Justin Kelly, DOAR

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1 (A jury of twelve and six alternates was impaneled and
2 sworn)

3 THE COURT: Ladies and gentlemen of the jury, now that
4 you've been sworn, I'm going to briefly tell you something
5 about your duty as jurors over the next few weeks and give you
6 certain instructions as to how to comport yourself over the
7 course of the trial. At the end of the trial, I'll give you
8 more detailed instructions, and those instructions will control
9 your deliberations.

10 At the end of the presentation of the evidence and
11 after I've given you my charge, it will be your duty to decide
12 from the evidence what the facts are and whether the government
13 has proved beyond a reasonable doubt that the defendants have
14 committed the crimes charged. When I say the defendants, you
15 must look at each defendant separately. There's no grouping of
16 defendants here. You have to look at each defendant
17 separately.

18 You have to decide from the evidence and what the
19 facts are whether the government has proved beyond a reasonable
20 doubt that the defendant you are considering has committed the
21 crimes charged against that defendant. You, ladies and
22 gentlemen of the jury, and you alone, are the judges of the
23 facts here. You're going to hear the evidence. You're going
24 to decide what the facts are. You will apply those facts to
25 the law, and I'll give you what the law is. That's how you'll

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1 reach your verdict.

2 In doing so, you must follow what I tell you the law
3 is, whether you agree with it or not. An important thing to
4 note is you must not take anything I say or do during the trial
5 as indicating what your verdict should be. I have no view of
6 the facts here. In fact, I may be taking notes at some point
7 or I may be talking with my deputy or my clerks. It may very
8 well have to do with another matter, because I have other
9 matters that I have to handle. Even if it has to do with this
10 case, don't let it influence you in any way. Almost certainly
11 it will deal with other matters.

12 You are going to decide what the facts are from the
13 evidence that will be presented here in court. That evidence
14 will consist of three different things: the testimony of
15 witnesses that you'll hear speak from that witness stand;
16 documents and other things that I admit into evidence as
17 exhibits; and any facts that the lawyers have stipulated to --
18 in other words, facts that the lawyers have agreed upon and
19 they've stipulated that the particular facts are true. You
20 don't have to worry about that. You'll know when that comes
21 in. One of the lawyers will stand up and say the parties have
22 stipulated to the following facts, and they'll ask me to admit
23 the stipulation as evidence. So everyone will have agreed that
24 those facts are agreed upon, and you must accept the
25 agreed-upon facts as true.

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1 So there are three ways evidence comes in, as I just
2 said: the testimony of witnesses; documents and other things I
3 admit into evidence; and stipulations of the parties. But
4 there are two types of evidence: direct evidence and
5 circumstantial evidence.

6 Direct evidence is simply testimony by a witness about
7 what that witness personally did or saw or heard. That person
8 has direct evidence of what he or she is telling you.

9 Circumstantial evidence is simply indirect evidence.
10 It is proof of one or more facts from which you can find
11 another fact. The example that many judges in this courthouse
12 give is as follows:

13 Assume the blinds are drawn so you can't see outside,
14 which is true. Assume somebody comes into the back of the
15 courtroom, where that gentleman is standing, and he or she has
16 a wet umbrella. You have direct evidence of that wet umbrella.
17 You are entitled to infer from the direct evidence of a wet
18 umbrella another fact -- that is, it's raining outside. So the
19 wet umbrella is circumstantial evidence of the fact it's
20 raining outside.

21 Circumstantial evidence is simply you're inferring
22 from one or more facts to another fact. That's all it is.
23 There are certain logical inferences that you can draw from the
24 fact that there's a wet umbrella here. Certainly, logically,
25 one can think that it's raining outside, a perfectly

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1 permissible inference for the jury to draw from the fact of a
2 wet umbrella. But mind you, that may not be the case. The
3 person may have put the umbrella under a faucet in the men's
4 room or ladies' room, but certainly it's logical to infer from
5 the fact of a wet umbrella that it's raining outside. That's
6 all there is to circumstantial evidence. It's inferring from a
7 directly observed fact to another fact.

8 The law does not weight direct evidence more or less
9 than circumstantial evidence. It's you, the jury, that will
10 put weight on each piece of evidence. So you, the jury, will
11 decide who to believe, who not to believe, and of those you
12 believe, what parts of their testimony to believe, what parts
13 not to believe. And of the parts you believe, you'll weigh
14 that part according to how you feel appropriate. You could put
15 heavy weight on a piece of direct evidence or heavy weight on a
16 piece of circumstantial evidence or little weight. That's
17 entirely up to you. And again, you don't have to accept any
18 piece of evidence that you don't credit, that you don't think
19 is appropriate for you to credit.

20 What's important is you're the deciders of the facts
21 here. You're the sole judges of the facts. You determine who
22 to believe, who not to believe, and what weight to put on any
23 piece of evidence of those that you do believe.

24 Now, you've all seen these trials on TV, so you have a
25 general sense of how these things work. A lawyer may ask a

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1 question of a witness. The other lawyer will stand up and say
2 "I object," and when that happens, when the lawyer's objecting
3 to the question, that means he or she thinks the questions is
4 not a permissible question, it's not a proper question, it's
5 not designed to adduce evidence that can be admitted.

6 When that happens, that calls upon me to do my job,
7 and I have to determine whether the question is a proper one or
8 not. If I believe, under the law, it's not a proper one, I
9 will say "objection sustained." And if I believe it's a proper
10 one, I'll say "objection overruled" or I'll say "you may
11 answer" to the witness. You don't have to memorize that.
12 You'll see it play out, but let me give you a for-instance.

13 Assume a lawyer asks a witness a question and the
14 other lawyer says "objection, your Honor." And assume I
15 sustain that objection. What can you take away from that
16 interchange?

17 The answer is nothing, because what the lawyers say is
18 not evidence. What I say is not evidence. Anything these
19 lawyers say -- whether it's a legal objection or they're
20 talking -- isn't evidence. Similarly, anything I say is not
21 evidence.

22 So in the example I gave you, you have the lawyer
23 asking a question, the other lawyer objecting, my sustaining
24 it, but the witness has said nothing. The witness is the only
25 person who can give you testimony in that example. You can't

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1 take anything from an unanswered question. For that matter,
2 you can't take anything from a question. It's only the answers
3 that matter, not the questions.

4 Now, it may be that I will strike an answer; I'll say
5 the jury is directed to disregard the answer. If I do that,
6 you must do that. Normally, the way that would arise is a
7 question is asked, another lawyer objects, I sustain it, but in
8 the interim, the witness, who quite appropriately is focusing
9 really on what the question is, may have answered the question
10 even though I sustained an objection. So I may say then the
11 jury is directed to disregard the answer. Again, you don't
12 have to memorize this. It will play out in open court.

13 Don't draw any inference from an unanswered question.
14 Again, questions are not evidence. Don't consider what the
15 witness would have answered. It's only what the witness has
16 answered.

17 The law requires that your decision be made solely on
18 the evidence in front of you. The law does not require, as I
19 said, you to accept all of the evidence which I admit. It's up
20 to you to decide what to accept and what not to accept.

21 Now, there's no magic formula I can give you as to how
22 to evaluate testimony. There just isn't. All I can tell you
23 is when determining who to believe and who not to believe and
24 what part of the evidence to believe, the best advice I can
25 give you is to use your common sense. Use your life

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experience. Use your good judgment. And by that I mean every moment of every day you decide who to believe and who not to believe. When you're talking with your family members, your children, when you're engaged in a business transaction, on the street when you're buying a newspaper or when you're listening to a podcast or something, you decide who to credit and who not to credit. Use your good judgment, your life's experience and your common sense.

Now, I've told you what is evidence and how evidence comes in. I've told you a bit about what's not evidence. What the lawyers say is not evidence. What I say is not evidence.

After lunch -- we'll take a lunch break -- we will go to the opening statements of the lawyers. The order of opening statement is set by law. The parties have no role to play in that. The government will present the first opening statement and then each of the defendant's attorneys will present their opening statements. As I said, the order is set by law.

I want you to listen to their opening statements. But remember what the lawyers say is not evidence. Listen to the opening statements. What they're going to say is, they're going to tell you what they think the evidence is going to show. It's sort of a preview of what they think the evidence is going to be, so listen to it. Also, I'm sure they'll tell you what conclusion they want you to draw from the evidence. So listen to what they have to say and think about it during

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1 the course of the trial. But what they say is not evidence.

2 Anything you see or hear when the court is not in
3 session is not evidence, and even if it's said or performed by
4 one of the parties here, by one of the lawyers or one of the
5 defendants, that's not evidence. The only evidence is evidence
6 that you hear when the court is in session in this courtroom.
7 Nothing else. Certainly anything you may hear in the news or
8 newspapers, anything like that, isn't evidence, and indeed,
9 I've already instructed you to just turn the channel, turn the
10 page in the newspaper, so that you're not affected by any media
11 or anything else, commentators on this trial.

12 Let me tell you certain protocols that I want you to
13 follow:

14 First, don't talk to each other about this case.
15 Don't talk to anyone else about this case. If your family asks
16 you about the case, say you're on the jury and the judge has
17 asked you not to talk about it. The reason is pretty simple.
18 Many people -- about this case and any case -- will have
19 opinions, even though they haven't heard the evidence, and I
20 don't want any of you to be affected by anyone else's opinion
21 that hasn't been reached on the basis of hearing all the
22 evidence and on the basis of hearing my instructions on what
23 the law is. That's why I don't want you to talk to other
24 people about this case.

25 Why I don't want you to talk to each other is

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1 basically for the same reason; that is, you would not have
2 heard all of the evidence, and I don't want you to talk to each
3 other about your preliminary thinking until all of the evidence
4 is in and I've instructed you on what the law is. So don't
5 talk to each other. Don't talk to others about the case.

6 I told you yesterday that I've instructed these
7 lawyers and the parties not to greet you. I want to keep you
8 separate, so please don't greet them. Now, if you nod your
9 head hello because somebody looks vaguely familiar, that I
10 understand. But try not to do that and try to have no contact.

11 You know we ask you not to eat in the cafeteria
12 because participants in the trial may be eating in the
13 cafeteria. The cafeteria food is adequate, but you're not
14 missing anything -- it's terrible -- by not eating in the
15 cafeteria. I eat in the cafeteria most days in order to save
16 time.

17 Don't do any research about this case. As I said,
18 don't read any newspapers. Don't do social media. Don't go on
19 Google, anything. Just listen to what transpires in court.
20 Each of the parties are entitled to have you personally render
21 a verdict on the basis of your independent evaluations of the
22 evidence presented in this courthouse and nothing else.

23 Now, remember it's a criminal case and the defendants
24 have been charged in an indictment with the commission of
25 federal crimes. You know the indictment is simply an

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1 accusation. It's not evidence of anything. Each of the
2 defendants here -- Mr. Menendez, Mr. Daibes, Mr. Hana -- has
3 pled not guilty to the charges against them, and each of them
4 denies committing the charged offenses. Each defendant is
5 presumed innocent throughout this trial until such time, if
6 ever, that you reach the conclusion that the government has met
7 its burden of proving the defendant you are considering guilty
8 beyond a reasonable doubt on every element of every charge in
9 this indictment. And I'll explain all of that at the end.

10 So you basically know the outline of the trial, and
11 when we come back from lunch, the lawyers will give their
12 opening statements. I want you to listen to them. After
13 that -- I don't know if we'll have time today; otherwise, we'll
14 start tomorrow -- the government puts on its witnesses. The
15 witness will take the stand, answer questions, and then the
16 defendants will be able to cross-examine that witness and the
17 government will be able to put on its witnesses, which will
18 take a couple of weeks.

19 At the end of that, the defendants are entitled to put
20 on their case and their witnesses and then they'll direct
21 questions to them and the government will cross-examine them.
22 But remember the defendants, each defendant, are under no
23 obligation whatsoever to put on any case at all, because
24 there's never any burden on the defendant to prove anything.
25 Each defendant is presumed innocent until such time, if ever,

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1 that you find that defendant is guilty beyond a reasonable
2 doubt.

3 After that, the attorneys will make their closing
4 arguments in which they'll tell you what they think the
5 evidence showed. But again, those closing arguments aren't
6 evidence. You decide what the evidence showed.

7 And after that, I'll give you instructions on the law,
8 and then you'll retire to deliberate on the verdict.

9 Please don't make up your mind what the verdict is
10 until after you have heard all the evidence and I've instructed
11 you on the law. You must keep an open mind until then. All of
12 the parties -- the government and the three defendants here --
13 deserve, and the law requires, that you give them the
14 opportunity to be fully heard.

15 Now, when you come in in the morning and after lunch,
16 don't come in here. Come into the jury deliberation room.
17 Ms. Blakely, my deputy, will take you there, and then you'll go
18 to lunch from there, and when you come back, come into the jury
19 deliberation room. Don't come here, because I'll be working
20 with the lawyers and the parties, or I may be, but in any
21 event, we'll be here. So don't come into this courtroom until
22 Ms. Blakely sees that all 18 of you are here, and then you'll
23 come into the courtroom and the trial will continue.

24 You'll have notepads in case you want to take notes.
25 It will just be yours. Ms. Blakely will hand them out in the

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1 morning and collect them in the afternoon. They'll have your
2 numbers or your names on them. You don't have to take notes.
3 It's entirely up to you. But if you do take notes, please
4 don't share them with anyone else -- for the same reasons I
5 said before, about talking with people. Psychological
6 experiments show that people tend to trust something more if
7 it's written down. So I don't want anyone showing their notes
8 or, for that matter, saying I know this is what was said, it's
9 written down, because psychologically, people will tend to
10 credit that more. But what you wrote down may be wrong; you
11 may have taken an imperfect note. So whatever notes you have,
12 just keep them for yourself and use them for your own purposes.

13 I think that covers everything.

14 It's now ten after one. Please be back here --

15 Ms. Blakely, do the jurors have cards that will enable
16 them to go to the head of the security line?

17 Yes?

18 All right. You won't have to wait on the security
19 line. Please be back in the jury deliberation room. It's ten
20 after. I'll give you more time today, make it 25 after one.
21 All right? Enjoy your lunch. 25 after one, we'll see you
22 here -- I'm sorry, after two. After two. And when you come
23 out, come out by number. That will be just more orderly.

24 Thank you.

25 (Jury not present)

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1 THE COURT: All right. Please be seated.

2 Let's talk about the slides that the government -- I
3 don't have the ECF number here. The government is contesting
4 the use of certain slides.

5 Who is going to be doing the opening for Mr. Menendez?

6 MR. WEITZMAN: I will be, your Honor.

7 THE COURT: All right. Mr. Weitzman, what the slides
8 should be, sir, is what you think the evidence is going to
9 show. A lot of this looks like, you'll forgive me, as sort of
10 a campaign pamphlet here. It's just what the evidence is going
11 to be. Now, these are issues that the government has raised.
12 I take it they're the only issues extant.

13 First of all, I will want Mr. Menendez's attorneys to
14 mark these, however you want to mark them, for ID, for
15 identification.

16 On the slides, the government has marked them No. 1,
17 because Mr. Menendez didn't. How is No. 1 going to come in,
18 sir?

19 MR. WEITZMAN: Your Honor, there are people who have
20 worked with the senator. There are people who are family
21 members of the senator. We do plan to present a defense case.
22 We plan to present this evidence.

23 THE COURT: And they're people who can testify to
24 this?

25 MR. WEITZMAN: The senator's history?

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1 THE COURT: Yes.

2 MR. WEITZMAN: Yes.

3 THE COURT: All right. Strike the phrase "with
4 distinction." Again, this is not a campaign pamphlet.

5 Everything else will be OK. But you're telling me
6 that you're going to have people testify in an admissible form.

7 MR. WEITZMAN: Correct, your Honor.

8 THE COURT: Sir.

9 MR. RICHENTHAL: This may be moot in light of the
10 Court's remarks, but just to be clear, our concern was less
11 that there's no way for the defendant to present these facts
12 and more that the jury shouldn't hear many of them -- for
13 example, that Mr. Menendez grew up in a tenement. It's hard to
14 see how that's designed to do anything other than attempt to
15 engender sympathy; or that Mr. Menendez has two particular
16 children, including their names; or that he was the first
17 person in his family to go to college. It's hard respectfully
18 for us to see how the jury should learn any of those facts
19 whether they're in admissible form or inadmissible form.

20 THE COURT: That's background. I'll allow that.

21 Strike the names, that's correct. Just say raised two
22 children. Strike everything after that.

23 MR. WEITZMAN: Yes, your Honor.

24 THE COURT: That's correct. No need to bring the
25 children in here.

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1 As long as there's a good faith representation that
2 these facts will come out, I'll accept it. And again, I'll
3 accept the background. I'm a little concerned about the
4 pictures, but the government hasn't raised that issue.

5 MR. RICHENTHAL: I'm sorry. We raised the pictures in
6 a particular way, so I just want to be clear.

7 We're not aware of whether these are exhibits. We
8 didn't receive them in marked form. We, the government, have
9 marked our own photographs. The defendants have had those for
10 some time. We asked last night and shared our concerns that if
11 the defendants wish to mark these as exhibits, that they do so.
12 But I'm not in a position to represent that, in fact, they're
13 exhibits -- never found out -- these particular photographs. I
14 don't have knowledge one way or the other.

15 THE COURT: Sir.

16 MR. WEITZMAN: Your Honor, I think there's any number
17 of FBI agents and anybody else in this case who can identify
18 these photographs and can offer them in evidence.

19 THE COURT: I'll allow it. Again, they're kind of
20 glorifying Mr. and Mr. Menendez. They're clearly ready for
21 their close-up there, but I will allow it.

22 Slide three, strike "children who are adults." That's
23 irrelevant.

24 MR. WEITZMAN: Your Honor, I apologize. It's not
25 irrelevant. The point is we need to delve into the

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1 relationship between Nadine and Bob for reasons that we've made
2 very clear in court. And whether they are taking care of a
3 family together, sharing those finances or not is exactly the
4 point. This is a relevant fact.

5 (Continued on next page)

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1 THE COURT: Strike it from -- I understand we'll deal
2 with it when that testimony comes in. Strike it from the
3 demonstrative.

4 I don't understand what 4 is. It seems to be an
5 excerpt from something. What is that?

6 MR. WEITZMAN: This is an excerpt from a witness who
7 the government plans to call, a woman named Shannon Kopplin.
8 This is her instruction to Senator Menendez as to how to file
9 certain financial disclosures. In a prior version of the
10 financial disclosure, it revealed certain gold disclosures of
11 gold bars were a parental gift. Ms. Kopplin instructs Senator
12 Menendez to delete that word, the parental gift. This is
13 evidence that is going to come in through the government's own
14 witness.

15 MR. RICHENTHAL: Here's the problem. That's true.
16 But when it comes in, it will come in context. And it will not
17 come in as hearsay. Ms. Kopplin has no personal knowledge as
18 to whether it is a parental gift. As presented --

19 THE COURT: Will it come in?

20 MR. RICHENTHAL: Ms. Kopplin will testify. She'll
21 talk about, if she's asked, whether by the government or by the
22 defense, interactions, if any, with Mr. Menendez as to his
23 disclosures. I expect the disclosures will come in.
24 Ms. Kopplin, if asked, will say she has no knowledge of what is
25 a parental gift or not. She has no ability to verify that

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1 information. The jury then will understand what this e-mail
2 means, and importantly, what does it not mean.

3 On this slide, and obviously I have not heard
4 Mr. Weitzman's remarks, it appears they are trying to embrace
5 for the truth of the matter asserted a statement that the
6 witness will deny having any personal knowledge of at all.

7 MR. WEITZMAN: It is not for the truth of the matter
8 asserted. It is for Senator Menendez's state of mind. Exactly
9 a valid non-hearsay purpose.

10 THE COURT: At this point I am going to strike this
11 slide itself.

12 Martin Luther King in an opening statement, we are not
13 makers of history. Again, it seems to be a civics lesson,
14 which would be welcome in the abstract. Or campaign piece.
15 But, focus on the evidence.

16 MR. WEITZMAN: I am, your Honor. With all due
17 respect, we offered an expert. You won't let us put in the
18 expert. We are still going to argue what the cash is from. We
19 are going to have witnesses and evidence.

20 THE COURT: I'm sorry. I'm talking about slide 5 now.

21 MR. WEITZMAN: Exactly, your Honor. This quote
22 contextualizes our argument about generational trauma and the
23 senator's practices. I've --

24 THE COURT: How does this quote, "We are not makers of
25 history, we are made by history." How does that --

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1 MR. WEITZMAN: What Martin Luther King was saying is
2 that the experiences of our family, parents and grandparents,
3 affect us. That's what I want to argue to the jury. I think
4 I'm permitted to argue that as part of my defense.

5 It is no different than countless openings and
6 closings where Maya Angelou is quoted, the Constitution, the
7 Declaration of Independence. This just a quote. Whether we
8 say MLK or we say a famous person.

9 THE COURT: I understand. Government?

10 MR. RICHENTHAL: Your Honor, I don't have an objection
11 to Mr. Weitzman making arguments from the evidence. Dr. King
12 was not speaking about Senator Menendez, or cash, or gold.

13 THE COURT: But he's saying it is not unusual to have
14 pablum thrown out during an opening or a closing.

15 MR. RICHENTHAL: In general that's true. But in my
16 experience of 14 years, I've never had someone try to quote
17 Gandhi, never mind present a slide with a quote out of context
18 plainly not talking about this case.

19 This is an appeal to the jury's emotion. And while
20 appeals to emotion are proper, they have to be based on
21 evidence or in this case expected evidence. Dr. King's quotes
22 on this subject --

23 THE COURT: I think that's right. It is too general.
24 I need the opening to be -- and of all the parties to be
25 focused on the evidence.

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1 Sir, I am going to strike, with my apologies to
2 Dr. King and General Powell, I think that's right. I'll strike
3 General Powell as well. Number 6.

4 MR. WEITZMAN: May I ask a question. May I express
5 the quote without attribution?

6 THE COURT: How are you going to do it?

7 MR. WEITZMAN: I'll say a famous person once said we
8 are not makers of history, we are made by history.

9 THE COURT: I'll allow that.

10 Now, 6. Again, I'm not going to go back to the
11 earliest Congress. Strike the first bullet point there.

12 7. The government is right, this is an incorrect
13 statement of the law to the extent I can understand it.
14 Official acts do not have to be taken. It can be a promise of
15 an official act. But you've checked that box. I'm striking
16 number 7.

17 I've already dealt with General Powell.

18 All of these, by the way, are 403 grounds or
19 irrelevance grounds.

20 I think number 9 is misleading. I don't understand
21 it. You certainly can talk about the three parts of
22 government. That is, if you wish to include the judiciary.
23 But to equate the undersecretary of the USDA and Senator
24 Menendez, I think is misleading. I'm going to strike 9.

25 MR. WEITZMAN: Your Honor.

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1 THE COURT: You can make the separation of powers
2 argument, of course.

3 MR. WEITZMAN: Your Honor, I'm not trying to mislead.
4 I was going to say they're members of different branch of
5 government.

6 THE COURT: Fine. Then you don't need the slide.

7 MR. WEITZMAN: These are visuals. I understand, your
8 Honor. That's fine.

9 THE COURT: What is 10?

10 MR. WEITZMAN: Your Honor.

11 THE COURT: You have 42 slides I understand. I've
12 never seen an opening with more than six or seven. There is no
13 rule against 42, but how does that come about?

14 MR. WEITZMAN: Number 10 is a letter that the senator
15 signed to Attorney General Holder. We expect the government
16 will argue that it is impermissible or improper for a senator
17 to reach out to an attorney general, and we want to -- and I
18 think your Honor ruled in connection with the motions in limine
19 that we're entitled to show the senator's consistent practices
20 in the past, and this is such a letter.

21 MR. RICHENTHAL: We would never argue and will not
22 argue it is improper for a senator to reach out to any member
23 of the executive branch. Context and facts matter. This is a
24 letter from 2010 on an unrelated subject. It is designed, in
25 our judgment, to engender sympathy. But whatever its purpose,

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1 it is not relevant to in case.

2 THE COURT: I must say I did not understand its
3 relevance. The government's not going to argue, so it's not in
4 issue, so 10 is out.

5 Senate Resolution 390, number 11, isn't that a waiver,
6 to the extent you're talking about a particular resolution on
7 the floor of the Senate? Isn't that a legislative act that's
8 the core of speech and debate?

9 MR. WEITZMAN: Your Honor, I apologize if I didn't
10 understand your Honor's prior ruling on speech and debate. It
11 did not address the Qatar evidence. If your Honor is --

12 THE COURT: I'm sorry. But it did say what are
13 legislative acts. And the core of legislative acts are things
14 on the floor of the Senate and committee hearings and so forth.
15 There's a core to the speech and debate protection, and
16 certainly, a senate resolution is core speech and debate. You
17 can introduce this. But it seems to me it is a waiver.

18 MR. WEITZMAN: It is not a waiver, because we have to
19 rebut the government's allegation, and the rebuttal is he
20 wasn't involved in it. So it is not the senator's speech or
21 debate here. We're saying he wasn't involved in this
22 resolution. He didn't --

23 THE COURT: What is a voice vote? Help me. What is a
24 voice vote? I assume a voice vote is everybody agrees. The
25 president of the Senate or however it goes.

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1 MR. WEITZMAN: When you listen to the voice vote,
2 there is only one voice actually noted. It is not the
3 senator's.

4 THE COURT: No. What does that one voice say? I
5 presume, but you'll have to tell me, something like unanimous
6 consent.

7 MR. WEITZMAN: It's just an aye and they ask for nays
8 I believe and no one speaks up.

9 THE COURT: Isn't that -- well, let me hear.

10 MR. WEITZMAN: It is the absence of his involvement.
11 We can't --

12 THE COURT: It seems to me that his vote and again --

13 MR. WEITZMAN: There is no vote.

14 THE COURT: His not naying is affirmative
15 participation in a voice vote is a legislative act. Correct me
16 if I'm wrong.

17 MR. WEITZMAN: Well, your Honor, they've charged him
18 with somehow passing, expediting, doing something with Senate
19 Resolution 390. I have to be --

20 THE COURT: Let's hear what they're going to do.

21 MR. WEITZMAN: If I can just make one point. I have
22 to be able to rebut their evidence by saying no, he wasn't
23 involved in Senate Resolution 390, without that being a waiver
24 of speech and debate. Senate Resolution 390 is a public
25 record.

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1 THE COURT: I hear what you are saying. Let me hear
2 the other side. I understand. You're saying they're going to
3 say he was involved in 390.

4 MR. WEITZMAN: Correct.

5 THE COURT: You need to say no, he wasn't.
6 Government?

7 MR. RICHENTHAL: So let me make two points which are
8 related but distinct. First, until the defense sought to do
9 this, we were not going to present evidence that Mr. Menendez
10 helped pass this resolution, precisely because we understood
11 that that conduct was protected.

12 THE COURT: Isn't that the end of this issue?
13 Mr. Weitzman, they're not going to present evidence he was
14 involved in 390.

15 MR. WEITZMAN: Your Honor, they have two exhibits on
16 their summary chart.

17 THE COURT: You know, there are so many exhibits that
18 were floating around here, and the parties were telling me
19 there were so many they couldn't respond and so forth. I tend
20 to think that there are many, many exhibits that aren't going
21 to be used by the government here. To the extent the
22 government knows there are marked exhibits that are not going
23 to be used, they should tell the defense.

24 But now respond.

25 MR. WEITZMAN: If I can just say one thing. If the

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1 government's position is that they're not going to reference
2 Senate Resolution 390 in their opening, I will happily ignore
3 this. But I think they will reference Senate Resolution 390,
4 in which case that forces me to respond without a waiver.

5 MR. RICHENTHAL: We're talking about two different
6 things.

7 THE COURT: Wait. Just let me think.

8 All right. Go ahead, sir.

9 MR. RICHENTHAL: We're talking about two different
10 things and I want to take a minute if I can to explain our view
11 of the two different things, okay.

12 First is the relevance to the existence which is
13 public, as Mr. Weitzman just said, of the resolution. Yes.
14 And we did intend and do intend to introduce that evidence.
15 Why? Because Mr. Daibes, as alleged in the indictment, and
16 explained in the indictment, at the time he offered and
17 provided things of value to Mr. Menendez, expected and
18 understood that Mr. Menendez would take action in return to
19 assist or benefit the government of Qatar and therefore
20 Mr. Daibes. That's Mr. Daibes' mental state as alleged.

21 We've also alleged that at the time Mr. Menendez
22 accepted those things, or agreed to accept those things, he
23 contemporaneously understood that was Mr. Daibes'
24 understanding. That is multiple federal crimes. That requires
25 us to demonstrate, among other things, what the understanding

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1 was about, which here included the resolution.

2 It does not require us to demonstrate, and we've
3 stayed far away from this moment from seeking to demonstrate
4 that in fact Mr. Menendez did anything on the resolution. It
5 existed. Mr. Daibes knew about it. We did not intend to
6 demonstrate Mr. Menendez took any action on it, because we
7 understood that to be protected. The back and forth that
8 Mr. Weitzman --

9 THE COURT: To the extent he took action on it, that
10 clearly is core speech and debate.

11 MR. RICHENTHAL: We agree. The back and forth your
12 Honor was having with Mr. Weitzman proves in our view why this
13 would affect a waiver, and let me explain. It is correct one
14 could in theory present to the jury the mere fact that the
15 resolution passed in this case, passed by voice vote, but that
16 would be incredibly misleading. Because it would suggest,
17 indeed Mr. Weitzman appears to want to suggest affirmatively,
18 that Mr. Menendez had no involvement in that. That's false. I
19 can't present that to the jury until they waive, but I'm
20 telling you it is false. Mr. Menendez reported this resolution
21 out of committee. That is, as we understand it, a legislative
22 act.

23 THE COURT: That's in the opinion, yes.

24 MR. RICHENTHAL: Yes.

25 THE COURT: Let's just get some basics here.

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1 Committee actions are core speech and debate. Go ahead.

2 MR. RICHENTHAL: Correct. That's why we did not,
3 until we saw these slides last night, intend in any way for the
4 jury to know what I've just told the Court. That Mr. Menendez
5 in his official capacity as a senator reported this resolution
6 out of committee.

7 If the defense wants to present the fact that when it
8 passed the Senate as a whole it did so by voice vote, in aid of
9 an affirmative argument that Mr. Menendez purportedly had no
10 involvement in it, we are entitled under the law to present the
11 context for that resolution. And the context is, he I
12 absolutely had involvement. The defense can't choose
13 50 percent of the story and present --

14 THE COURT: Let me see, I understand. Let me see if I
15 can help the parties here. You say his vote in committee was
16 to move the bill out of committee.

17 MR. RICHENTHAL: He reported it out of committee. I
18 don't recall standing here right now whether that was a vote or
19 simply an action to move it through committee.

20 THE COURT: Either way, it would be core speech and
21 debate. Reporting it out of committee. There is case law on
22 that as speech and debate. So Mr. Weitzman, as I understand
23 the debate now, if the position of the defense is that
24 Mr. Menendez had nothing to do with Senate Resolution 390,
25 obviously this isn't a game, and if the facts are that indeed

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1 he did, specifically, he reported it out of committee, which I
2 take it the Senate Foreign Relations was the committee?

3 MR. RICHENTHAL: Yes, your Honor.

4 THE COURT: Then clearly he has some involvement with
5 it. So, let's see what your position is. And if you are going
6 to say he had nothing do with it, and the truth is -- and this
7 is a search for the truth -- that he did have something to do
8 with it, and it seems to me to the extent I understand the
9 legislative process, reporting it out of committee is an
10 important step. I certainly know in terms of judges being
11 nominated and confirmed, being reported out of the Senate
12 Judiciary Committee is an important step. Then I would not let
13 the government -- not let the defense argue he had nothing to
14 do with it and that would constitute a waiver, insofar as
15 Senate Resolution 390 is concerned. Not insofar as all of
16 Qatar is concerned.

17 Sir.

18 MR. WEITZMAN: Your Honor, I think the words are clear
19 on the page, and that's what I am going to stick to, which is
20 he did not sponsor or co-sponsor the bill. It was sponsored by
21 Lindsey Graham.

22 THE COURT: Let me read it again. Go ahead.

23 MR. WEITZMAN: It was passed by a voice vote. That's
24 the argument. We're not broadening it. I think it is the
25 truth. It is what is reflected in the very exhibits that the

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1 government intents to offer.

2 THE COURT: The inference you're asking the jury to
3 draw from that is that he had nothing to do with 390, he was
4 not -- he was not a co-sponsor, it was passed by voice vote.
5 The inference, that's clearly what you're asking them to do.
6 As a matter of fact, when you started this a few moments ago,
7 you said he had nothing do with it.

8 MR. WEITZMAN: Your Honor, the inference that the
9 government leaves is deeply misleading. They're suggesting
10 that when Fred Daibes sends Senator Menendez a senate
11 resolution --

12 THE COURT: No, that's separate. I don't know whether
13 they're going to have decent evidence there. I don't know what
14 inferences are supportable there. But that's not what we're
15 talking about now.

16 What we're talking about now is to the extent you're
17 asking the jury to infer that Menendez had nothing to do with
18 390, I can't allow that inference to stand without allowing the
19 government to respond to it. And that, by virtue of that
20 argument, that would be a waiver, because we're talking about a
21 legislative act.

22 MR. WEITZMAN: Your Honor I'm not asking the jury to
23 draw that inference. I'm just --

24 THE COURT: What inference do you want the jury -- you
25 began, I thought, sir, maybe the hand gesture was mine, I don't

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1 know. Sort of a washing of hands. You began by saying -- I
2 thought you said he had nothing to do with it.

3 MR. WEITZMAN: It was reported out of committee. That
4 is a ministerial event. It is not a vote. I don't know
5 whether the senator even touched that in order for it to be
6 reported out of committee.

7 THE COURT: I'm saying now, reporting out of committee
8 is a core speech and debate act.

9 MR. WEITZMAN: I agree with that, your Honor. I just
10 don't know it was the senator's speech and debate. I don't
11 know the mechanics of how that happens.

12 THE COURT: I don't know either. But the
13 representation was that he reported it out of committee. He is
14 the chair.

15 MR. WEITZMAN: Yes, your Honor. And there is a
16 process for reporting and it starts with staff.

17 THE COURT: You can fill me in on specifics. I don't
18 know it now.

19 MR. WEITZMAN: The point is I'm not going to talk
20 about that. I am going to repeat the very facts that are on
21 the face of the government's evidence, which is the text
22 message that includes the bill. They want to put in the bill
23 and its resolution and the fact that it's passed into evidence,
24 and hamstring us from even identifying, reading the facts that
25 are on the bill, which is who are the sponsors and who are the

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1 co-sponsors. All of a sudden that leaves a misimpression as to
2 the evidence? I don't understand how. It is their evidence.

3 MR. RICHENTHAL: I'm sorry. I'll say it again. Until
4 last night, we had no intention, in any way, of introducing the
5 fact of the passage of the bill in any form.

6 THE COURT: Stop. Mr. Weitzman, I think you're
7 operating on a predicate or an assumption that the government
8 isn't following through on. They say, they're moving away from
9 390. They weren't going to introduce any -- what, if anything,
10 were you going to introduce about 390?

11 MR. RICHENTHAL: That Mr. Daibes was aware that it was
12 pending, that Mr. Daibes forwarded to Mr. Menendez information
13 about the resolution, ergo that it was pending, that he did so
14 at a time and in a manner suggesting, in our view, and the jury
15 can disagree, that that was why he was giving Mr. Menendez
16 gifts, alleged gifts.

17 THE COURT: What are you going to introduce about the
18 substance of 390?

19 MR. RICHENTHAL: That the resolution was pending, that
20 Mr. Daibes knew it, that Mr. Daibes passed information about it
21 to Mr. Menendez.

22 THE COURT: Without saying what its substance was?

23 MR. RICHENTHAL: I believe it has a title, so there is
24 sort of general substance. We weren't going to introduce the
25 resolution itself, which had not yet been enacted, nor were we

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1 going to introduce the fact it was enacted at all. The
2 indictment lays out the back and forth and the timing on this.
3 We were going to track the indictment, which does not require
4 us, and we were not going to, put in the actual passage, how it
5 passed, who passed it.

6 THE COURT: Or the content.

7 MR. RICHENTHAL: It has a title, so I don't want to
8 suggest there is nothing the jury could infer.

9 THE COURT: What's the title?

10 MR. RICHENTHAL: Thanking the government of Qatar. I
11 don't have it in front of me.

12 THE COURT: See if you can --

13 MR. RICHENTHAL: And the text messages themselves
14 with, when I talked about contemporaneous correspondence,
15 references the title. We'll try to pull the actual title right
16 now.

17 THE COURT: It's 20 to 2. I'm going to strike, right
18 now. The evidence, we'll deal with it -- actually, I'd like
19 some heads up before we have this fight on the evidence. To
20 the extent I can give you guidance. It sounds like the
21 government is not going to talk about the substance of 390, nor
22 the fact that Menendez, as chair of the Senate Foreign
23 Relations Committee, reported it out. But if that comes out,
24 it seems to me that's a waiver of speech and debate protection
25 in terms of 390. So the defense should tread lightly on it.

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1 MR. RICHENTHAL: I have the title right now if the
2 Court would like me to read the title. I'm quoting from
3 Congress.gov. This is not actually our exhibit, just so the
4 Court is aware of the title.

5 "A resolution expressing appreciation for the state of
6 Qatar's efforts to assist the United States during Operation
7 Allies Refuge." And that title is what Mr. Daibes texted to
8 Mr. Menendez at the contemporaneous time.

9 THE COURT: You're not concerned about the actual
10 substance of it.

11 MR. WEITZMAN: We are, your Honor. We are concerned,
12 and that's not speech and debate waiver. It is a fact that the
13 resolution was passed. It is a fact as to who the sponsors
14 are. And we can't be hamstrung -- forget the opening -- but at
15 this trial they need to know what this resolution is that the
16 government claims constituted a bribe between Fred Daibes and
17 Senator Menendez. To just introduce the title and say we're
18 not allowed to talk about it without waiving speech and debate
19 is a bit unfair.

20 THE COURT: Now you're talking about something else.
21 Because before you were -- I thought you were trying to
22 establish Menendez had nothing to do with this. Now your point
23 is different. Now your point is you want the jury to hear what
24 the resolution was. Is that correct?

25 MR. WEITZMAN: And who the sponsors were and who the

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1 co-sponsors were, yes. That's exactly what my slide is.

2 THE COURT: For what purpose? If the purpose is to
3 say Menendez had nothing to do with it, that is an inference
4 that the jury should not hear, if that's not the reality.

5 MR. WEITZMAN: And the misimpression that's left with
6 the jury is that Fred Daibes forwards this to Senator Menendez
7 and something happens as a result. We need to express he
8 didn't join as a sponsor or a co-sponsor.

9 MR. RICHENTHAL: Because of the Constitution, we're
10 not going to argue that Mr. Menendez did anything, unless the
11 defense suggests to the jury he did nothing, in which case we
12 have to say, no, he did act.

13 Again, they can't have it both ways. I think it is
14 page 94, line 16, I know lawyers sometimes say things, but
15 Mr. Weitzman said, I'm quoting, "We're saying he wasn't
16 involved in this resolution." That's not factually correct.

17 THE COURT: I'm with you on that. To the extent the
18 defense is going to argue he had nothing to do with the
19 resolution, in light of the representation that's been made to
20 me, that he as the chair reported it out of committee, I can't
21 allow the jury to be left with that inference.

22 That's as far as I am going to take it right now.
23 Everyone should go to lunch. I do want a heads up before this
24 comes up as to where the parties are so I can adjudicate it
25 appropriately.

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1 What's the very last thing, Secretary Blinken.

2 MR. RICHENTHAL: Slide 12, the last slide.

3 THE COURT: What's the purpose of slide 12?

4 MR. WEITZMAN: Yes, your Honor the non-speech and
5 debate part of the Qatar allegations involve public statements
6 that the senator made and press releases made. All I plan to
7 do is say that everybody and their mother was falling all over
8 themselves to thank Qatar, including Secretary Blinken and
9 Secretary Austin. Which was true. This would not have been
10 some motive for Qatar or anybody else to provide a bribe to --

11 THE COURT: Fine. Say it. I'm going to strike the
12 slide. You don't need the slide to say it. You can say
13 everybody was falling all over themselves.

14 All right. I did ask the jury to come back, I hate to
15 keep them waiting. Be here at 20 after. Can you make lunch in
16 that short period of time?

17 MS. POMERANTZ: Your Honor, do you anticipate that
18 we'll be proceeding with the first witness?

19 THE COURT: Well, let's talk about that. I doubt it.
20 I have my notes from a few days ago. Things may be different
21 now. And my notes are Ms. Pomerantz 45 minutes, call that
22 3 p.m. Mr. Weitzman one hour. Call that 4 p.m. Mr. Lustberg.

23 MS. POMERANTZ: I apologize. If we're coming back
24 here at 2:20, I think I'll be a little after 3 o'clock.

25 THE COURT: I don't think we're going to hit the first

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1 witness today. I really don't, based on these numbers.

2 MS. POMERANTZ: That's helpful for our planning.

3 THE COURT: And lawyers never overstate the time that
4 they're going to take. 2:20. Thank you.

5 (Recess)

6 (Continued on next page)

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Opening - Ms. Pomerantz

1 AFTERNOON SESSION

2 2:20 p.m.

3 THE COURT: We'll see if all of the jurors are here.

4 Ms. Pomerantz, is your estimate still 45 minutes?

5 MS. POMERANTZ: Yes, your Honor.

6 THE COURT: Thank you. My deputy is lining the jurors
7 up.

8 (Jury present)

9 THE COURT: All right, ladies and gentlemen, the next
10 stage of the trial is the opening statements of the lawyers.
11 As I told you, the order of opening statements is set by law.
12 The government will go first, and then each of the defendants.
13 And remember, unless I missed my mark, what each of the party's
14 representative will tell you is what they believe the evidence
15 shows and the conclusions they believe you should reach on
16 basis of that evidence, but you decide what the evidence is.
17 Anything they say, just as anything I say, throughout this
18 trial, by the way, is not evidence. Anything the lawyers say,
19 anything I say is not evidence.20 First opening on behalf of the government will be
21 given by Ms. Pomerantz. Ms. Pomerantz.22 MS. POMERANTZ: In the United States of America,
23 leaders are expected to put the country first. To put the
24 interests of the people they serve above their own. Public
25 servants are expected to serve the public.

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Opening - Ms. Pomerantz

1 This case is about a public official who put greed
2 first. A public official who put his own interests above his
3 duty to the people. Who put his power up for sale.

4 This is Robert Menendez. He is a United States
5 senator from New Jersey, and he was entrusted with making big
6 decisions, including decisions that affect this country's
7 national security. He was powerful. He was also corrupt. For
8 years, Robert Menendez betrayed the people he was supposed to
9 serve by taking bribes.

10 And what was his price? Gold bars. Envelopes stuffed
11 with cash. Checks for a bogus job for his wife. A
12 Mercedes-Benz convertible.

13 And who paid those bribes? This is Wael Hana. He is
14 a New Jersey businessman, originally from Egypt. Hana provided
15 some of those gold bars. He was also responsible for those
16 checks, and he promised to get Menendez's wife a car.

17 The gold, the money, the car. They were all bribes.

18 But that's not all of the bribes Menendez took. Who
19 also paid bribes? That man, Fred Daibes. Daibes is a wealthy
20 New Jersey real estate developer and Hana's business associate.
21 He was friendly with Menendez and his wife. Daibes bribed
22 Menendez and his wife with even more gold bars, and tens of
23 thousands of dollars in cash stuffed in envelopes.

24 And what happened to the gold and the cash? The FBI
25 found gold bars and over \$400,000 in cash in Menendez's home.

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Opening - Ms. Pomerantz

1 In a safe. In jacket pockets. In shoes. All over the house.

2 What did Menendez promise to do in exchange for the
3 gold, the cash, the checks, and the car? He made three types
4 of corrupt promises. First, Menendez promised to do things to
5 benefit Hana and the government of Egypt. Menendez promised
6 that he would put some of his decisions on U.S. foreign policy
7 up for sale in exchange for bars of gold and checks to his
8 wife. He promised to approve billions of dollars in military
9 aid to Egypt. He also helped give Egyptian officials an inside
10 track in Washington. He gave them sensitive, non-public U.S.
11 government information.

12 Second, in exchange for a Mercedes convertible,
13 Menendez promised to try to disrupt a state criminal case
14 targeting two people Hana knew. He promised to corrupt the
15 criminal justice system for a luxury car.

16 And third, Menendez promised to try to influence a
17 federal criminal case against Daibes. Menendez again promised
18 to corrupt the criminal justice system. What was his price
19 this time? Cash and gold bars.

20 This was not politics as usual. This was politics for
21 profit. Robert Menendez was a United States senator on the
22 take, motivated by greed, focused on how much money he could
23 put in his own pocket, and in his wife's pocket.

24 That is why we are here today. That is what this
25 trial is all about.

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Opening - Ms. Pomerantz

1 This opening statement is the government's opportunity
2 to give you a roadmap of the evidence that you are going to see
3 and hear in this case, and I'm going to do that in three parts.
4 First, I'm going to tell you what the evidence is going to
5 show. Second, I'm going to give you a brief description of the
6 charges in this case. And third, I'm going to talk about the
7 different types of evidence that will prove beyond a reasonable
8 doubt that the defendants are guilty.

9 So what will the evidence show? The bribery scheme
10 had three main goals. They all involved Robert Menendez
11 selling his influence and power as a U.S. senator to Wael Hana
12 and Fred Daibes, and they also involved Menendez using his wife
13 as a go-between. She communicated with the bribe payers, she
14 passed messages to Menendez, and she collected some of the
15 bribes. All in exchange for Menendez's promises to use his
16 power as a senator.

17 So let's take each part of the scheme one at a time.
18 The scheme started with the plan for Menendez to corruptly
19 assist Hana and the government of Egypt. This part of the
20 scheme involved all three defendants, and it involved Menendez
21 repeatedly selling his influence and power over U.S. foreign
22 policy in exchange for gold bars and checks. He did it for the
23 benefit of the government of Egypt, which was hungry for U.S.
24 military aid. And he did it for Hana's benefit, too.

25 So how did it all begin? The scheme started in early

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Opening - Ms. Pomerantz

1 2018 when Robert Menendez was a leader of the Senate Foreign
2 Relations Committee. That's a committee of senators that has
3 tremendous influence over U.S. foreign policy. And as one of
4 the leaders of that committee, Menendez was powerful. He was
5 so powerful that he could hold up billions of dollars of U.S.
6 military aid to Egypt.

7 At the same time that he led that powerful committee,
8 Menendez started dating Nadine Arslanian. Nadine later married
9 Menendez, and took his last name. When Menendez and Nadine
10 started dating, Hana and Nadine had already been friends for
11 years. And when Hana learned Nadine was dating a senator, he
12 saw an opportunity. You see, Hana was a failed businessman,
13 but he had connections to the government of Egypt. And Hana
14 believed that if he could get Menendez to help Egypt, then
15 Egypt would reward Hana. So Hana promised to pay Menendez and
16 Nadine. In exchange, Menendez promised to use his power to
17 help Egypt. And that deal, bribes from Menendez's promises to
18 help Egypt, lasted for years.

19 So let's start by talking about what Menendez did.
20 Between 2018 and 2022, Menendez met again and again with
21 Egyptian officials. But these were not normal meetings
22 arranged and attended by Senate staff. These were meetings
23 arranged by Nadine and her friend Hana. At these meetings,
24 over the years, Egyptian officials asked Menendez to use his
25 power to help Egypt in several ways. Let's talk about just

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Opening - Ms. Pomerantz

1 three examples of how Menendez helped Egypt.

2 First, Menendez used sensitive, non-public information
3 about the U.S. embassy in Egypt to Egyptian officials.

4 Sensitive information the Egyptians had no business knowing.
5 How did he do it? He sent it to Egyptian officials through
6 Nadine and Hana.

7 Second, Menendez secretly wrote a letter from Egypt
8 meant to respond to his fellow senators' concerns about Egypt's
9 human rights record. Concerns that led senators to freeze
10 \$300 million in U.S. aid to Egypt. That's right. A United
11 States senator secretly helped a foreign country draft a letter
12 to persuade other U.S. senators who were concerned about human
13 rights abuses.

14 Third, Menendez promised to green light or give the go
15 ahead on U.S. military aid, including weapons and U.S. taxpayer
16 money to Egypt. For example, the day after meeting with
17 Egyptian military officials, Menendez texted Nadine to tell
18 Hana that he was going to sign off on or approve the sale of
19 almost a hundred million dollars of tank ammunition to Egypt.
20 Menendez used his girlfriend to secretly promise Egypt that he
21 would approve their military aid.

22 These are only some of the ways Menendez promised to
23 help Egypt.

24 What did he get in exchange? Bribes from Hana. But
25 Menendez had to find a way to get that money without setting

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Opening - Ms. Pomerantz

1 off alarm bells. Hana couldn't just write checks to Menendez.
2 That would be too obvious. So Hana promised to give Nadine a
3 sham job at his company as a consultant, but she didn't have
4 any relevant business experience, and she wasn't being hired to
5 do any real work. The promises of a job were just promises of
6 a bribe.

7 But there was a problem. After months of Menendez
8 promising to help Egypt, Hana wasn't coming through with his
9 promises of payments to Nadine. He was a failed businessman
10 without a lot of money to be paying the bribes he promised.

11 And then, Hana's business problems were solved. After
12 months and months of helping the government of Egypt influence
13 Menendez, Hana got a business monopoly. The government of
14 Egypt dropped a lucrative monopoly into Hana's lap. Overnight,
15 Hana's brand-new company became the only one that could approve
16 shipments of beef from the United States to Egypt. Hana didn't
17 actually have any experience in this business. Zero. But
18 you'll learn that what he did have were connections in the
19 Egyptian government and a U.S. senator in his pocket promising
20 military aid.

21 The Egyptian government took business away from
22 multiple U.S. companies and gave it all to Hana. This was
23 great for Hana. He now could finally deliver on those promises
24 of a bogus paycheck to Nadine. But while Hana's monopoly was
25 great for him, and was going to be great for Robert Menendez

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Opening - Ms. Pomerantz

1 and Nadine, some people were not happy about it.

2 Not long after Egypt gave Hana the monopoly, officials
3 from the United States Department of Agriculture, or the USDA,
4 which is the federal agency that oversees the export of beef,
5 contacted the government of Egypt. And they objected, this was
6 bad for U.S. companies. Bad for U.S. business. They tried to
7 get Egypt to reconsider. Hana learned about the USDA trying to
8 get in his way. And so, who did Hana run to for help?

9 Menendez. The evidence will show that Menendez knew the
10 monopoly by putting money in Hana's pocket was going to be a
11 payday for Menendez, too.

12 So Menendez stepped in and told the USDA to stand
13 down. He called a high-level official at the USDA and told him
14 that the USDA better stop opposing the monopoly. When that
15 USDA official tried to tell Menendez why the monopoly was
16 hurting American interests, Menendez just told the USDA to
17 stop. And even though the USDA official did not give in to
18 Menendez's demands, Hana's company kept its monopoly.

19 And in the meantime, Menendez and Nadine got to work
20 making sure they could get the bribes from Hana. Menendez
21 helped Nadine create a shell company called Strategic
22 International Business Consultants. But don't let that the
23 name fool you. It wasn't strategic, it hadn't done any
24 international business, it didn't have any consultants. Just
25 Nadine, who had nothing but her connection to Menendez.

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Opening - Ms. Pomerantz

1 You'll learn that this wasn't a consulting company.
2 It was a bribe collection company.

3 But even with that company set up, Hana didn't pay
4 right away. He stiffed Nadine, and Nadine got mad. Menendez
5 had done what Hana wanted, and now Hana had to pay up. So
6 Nadine complained and she demanded to get paid. She asked for
7 Hana's company to pay off her late mortgage payments on her
8 house. But even after agreeing that he would, Hana was still
9 dragging his feet.

10 So who did Nadine go to? Fred Daibes. Daibes had
11 money. He was close with Hana, and he was friendly with
12 Menendez. Nadine told Daibes that Menendez wanted to know if
13 Hana made the mortgage payment. And what happened? Hana made
14 the payment right away. But Daibes didn't stop there. Again
15 and again, he made sure that Hana paid the bribes. Daibes even
16 physically handed one of those bribes to Menendez himself. A
17 check from Hana delivered by Daibes.

18 Why did Daibes get involved? Money. Hana invested
19 some of his monopoly profits into business deals with Daibes.
20 So when Hana made money, Daibes made money, too. They both got
21 paid. And so did Menendez, through sham paychecks to Nadine,
22 and eventually, gold from Hana.

23 The scheme filled Menendez's pockets, it filled his
24 wife's pockets, and it fed their greed.

25 Robert Menendez was willing to corruptly use his power

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Opening - Ms. Pomerantz

1 to help Hana and the government of Egypt in exchange for
2 bribes. What the law calls quid pro quo. This for that. You
3 scratch my back, I'll scratch yours.

4 Sham paychecks and gold from Hana for Menendez's
5 promises of military aid to Egypt and for leaning on those in
6 the U.S. government who might try to stand in Hana's way.
7 That's the first part of the scheme.

8 Now I'm going to talk about the second part of the
9 scheme. The part involving a state criminal case. This part
10 involved Menendez and Hana. At the same time that Hana was
11 bribing Menendez to help Egypt and his company, Hana was also
12 working with a New Jersey insurance broker named Jose Uribe to
13 give a \$60,000 Mercedes convertible to Menendez and Nadine.
14 What was the Mercedes for? Menendez's promise to disrupt a
15 criminal case that was being handled by the New Jersey Attorney
16 General's Office.

17 So here's what happened. Uribe was an insurance
18 broker who had been friends with Hana for years. Both Uribe
19 and Hana knew a trucker who was being prosecuted in New Jersey
20 state court for insurance fraud. The prosecutors and
21 detectives from that case were also investigating one of
22 Uribe's employees, who Uribe considered to be like a daughter
23 to him. Hana told the trucker and Uribe that he could make the
24 case go away in exchange for tens of thousands of dollars of
25 cash. How? Through Menendez. And why did Menendez promise to

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Opening - Ms. Pomerantz

try to disrupt the criminal investigation? Because Nadine needed a car. Menendez wanted to keep Nadine happy. And Hana promised to get Nadine the car she wanted.

And you'll learn she didn't want just any old car. She wanted a brand-new Mercedes convertible. And just like that, once Hana promised the car, Menendez sprang into action. He called the New Jersey Attorney General, the ultimate boss of the prosecutors and detectives handling the case against the trucker. Menendez complained about the case, and asked the attorney general to get personally involved. It didn't work. The trucker eventually pled guilty.

But the investigation into Uribe's employee kept going, and Uribe wanted that investigation to go away. So after Hana brought Uribe into this part of the scheme, Uribe met with Nadine directly, and they came to an agreement. Uribe agreed to buy Nadine a Mercedes convertible, the car she had told Hana she wanted. What was Uribe getting in return? Menendez would try to make the investigation go away.

And so, Uribe made good on his word. In the spring of 2019, he handed Nadine \$15,000 in cash in a parking lot. Nadine then used that cash for the down payment on a Mercedes convertible. She checked in with Menendez about the color scheme, and after the purchase was complete, she texted Menendez. "Congratulations. We" and that's the word she used when texting Menendez. "We are the proud owners of a 2019

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Opening - Ms. Pomerantz

1 Mercedes."

2 But the \$15,000 in cash was just the start. Uribe
3 kept making the monthly payments for the Mercedes. Nadine
4 didn't pay a dime. Neither did Menendez.

5 So what happened to the New Jersey investigation? In
6 the summer of 2019, a detective reached out to interview
7 Uribe's employee. Uribe wanted Menendez to make the
8 investigation go away, so he went to Menendez directly. And
9 Menendez held up his part of the deal. He stepped in again.
10 He went out of his way to schedule a meeting with the New
11 Jersey Attorney General, the same attorney general he had
12 called before. And for a second time, he complained and asked
13 the attorney general to get personally involved in the case.
14 It didn't work. But Menendez told Uribe that the meeting went
15 well. And so, Uribe kept making those monthly payments on the
16 Mercedes. And a couple of months later, in the fall of 2019,
17 Menendez told Uribe that he had nothing to worry about. The
18 investigation was done. And so, Uribe held up his end of the
19 bargain. He kept making those car payments for years. Again,
20 quid pro quo. This for that. A Mercedes for Menendez's
21 corrupt promises to disrupt a state criminal case.

22 So that's the second part of the scheme. Now, let's
23 talk about the third part involving Menendez and Daibes.

24 Not long after Menendez agreed to use his power to try
25 to interfere with the state criminal case I just told you

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Opening - Ms. Pomerantz

about, Menendez made the same type of promise. But this time, he promised to use his office to try to interfere with a federal criminal prosecution of Daibes. What did Menendez get in exchange? Cash and gold bars.

So let's take a step back. In 2018, the United States Attorney's Office for the District of New Jersey brought criminal charges against Daibes, who was friends with Menendez. The U.S. Attorney's Office for the District of New Jersey is responsible for all of the federal prosecutions in the entire State of New Jersey. That office is led by the U.S. attorney from that district.

U.S. attorneys are nominated by the president of the United States, and senators have a lot of influence over who the president nominates. So when the previous U.S. attorney for New Jersey announced that he was resigning in late 2020, Menendez tried to use this influence as a senator to get a particular candidate to be the new U.S. attorney. A candidate who he thought would make Daibes' criminal case go away.

When Menendez first interviewed this candidate, Menendez, out of nowhere, brought up one specific case, and only one case. Fred Daibes' case. Out of the hundreds of cases the U.S. Attorney's Office was handling, Menendez only brought up Daibes. Menendez criticized the prosecution of Daibes, and said that he hoped the candidate would look into Daibes' case if the candidate became the U.S. attorney.

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1 After that interview, the candidate told Menendez that
2 he might be recused from Daibes' case if he became the U.S.
3 attorney. And being recused means that he would have no
4 involvement in the case. How did Menendez respond to this
5 news? Within hours, Menendez started searching for someone
6 else for the job who would have control over Daibes' case. And
7 so, Menendez recommended a different person to be the U.S.
8 attorney in New Jersey. But that person's nomination fell
9 through.

10 What happened next? Well, one of Menendez's advisors
11 spoke to the original candidate. After that conversation, the
12 advisor told Menendez that he thought the original candidate
13 could have control over the case after all. That was exactly
14 what Menendez wanted. A U.S. attorney who he could try to
15 influence to make the case against Daibes go away.

16 But things didn't go as planned. After the candidate
17 became the U.S. attorney in December 2021, he was recused from
18 Daibes' case. Menendez still wanted to disrupt the case,
19 though, and tried several times without success to get the U.S.
20 attorney to become involved.

21 Why was Menendez going out of his way to disrupt the
22 Daibes' prosecution? You'll learn that it wasn't out of the
23 goodness of his heart. He was being paid bribes by Daibes to
24 obstruct a criminal prosecution. During this whole time, when
25 Menendez was trying to disrupt the prosecution, Daibes was

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Opening - Ms. Pomerantz

1 giving Menendez and his wife valuable things, like 1 kilogram
2 gold bars. At that time, each gold bar was worth over \$50,000.
3 Did Menendez know how much they were worth? You bet. Because
4 when Daibes started giving them the gold, again and again,
5 Menendez Googled the price of a kilogram of gold.

6 But Daibes delivered more than just gold bars. He
7 also gave Menendez and his wife cash. Tens of thousands of
8 dollars in cash in envelopes found in Menendez's home, with
9 Daibes' DNA and fingerprints on them.

10 But that's not the only reason why Daibes gave
11 Menendez bribes. You see, Daibes' criminal case made it hard
12 for him to get investments for his business. And he was hoping
13 for a multimillion dollar investment from a company connected
14 to another foreign government. The government of another
15 Middle Eastern country, Qatar. Menendez had power over U.S.
16 policy about Qatar, not just Egypt. So Daibes bribed Menendez
17 for that, too. Daibes suggested ways Menendez could help
18 Qatar, like by supporting a senate resolution praising Qatar.
19 And so Menendez took the gold and he took the cash, knowing
20 Daibes wanted him to take those actions.

21 Another quid pro quo. This for that.

22 Cash and gold bars for Menendez's promises to try to
23 make a criminal case go away, and use his position as a senator
24 to get a Qatari investment in Daibes' business. You scratch my
25 back, and I'll scratch yours.

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Opening - Ms. Pomerantz

1 So those are the three parts of this scheme. But
2 that's not all that happened. When the FBI started asking
3 questions about these bribes, Menendez and Nadine lied. They
4 tried to cover up their crimes. They claimed that Uribe's
5 payments on the Mercedes convertible were a loan. That was a
6 lie. They claimed that the payment from Hana to Nadine's
7 mortgage company was also a loan. That was also a lie. And
8 they tried to create a fake paper trail to make their lies look
9 real. But those lies and the fake paper trail didn't work.
10 They still got caught.

11 That's what the evidence will show. That Robert
12 Menendez took bribes in exchange for promises to use his
13 position. That Wael Hana and Fred Daibes paid bribes for
14 Menendez's power and influence. Menendez corrupted his office
15 and betrayed the trust placed in him by taking bribes from
16 these two men.

17 Now, helping out New Jersey residents was a part of
18 Menendez's job. But there were some things he said he could
19 not do. According to his own Senate website, Menendez couldn't
20 influence matters involving a private business, and he could
21 not get involved in criminal investigations or cases. Period.
22 That's what he told the public.

23 But behind the scenes, Menendez was doing those things
24 for certain people. The people who were bribing him and his
25 wife.

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Opening - Ms. Pomerantz

1 For their actions, the defendants are charged with
2 federal crimes. All three defendants are charged with bribery
3 offenses. Menendez is also charged with acting as an agent of
4 Egypt for doing the kinds of things I talked about earlier,
5 like giving Egypt sensitive information, and secretly
6 ghostwriting a letter for them. Finally, Menendez and Daibes
7 are both charged with obstruction of justice. Both of them for
8 conspiring, or agreeing, to disrupt the federal prosecution of
9 Daibes, and Menendez for trying to obstruct the investigation
10 into this bribery scheme by lying about some of the bribe
11 payments.

12 You'll hear more about these charges at the end of the
13 trial, when Judge Stein instructs you on the law, and his
14 instructions control. But for now, there are just a few points
15 I want to highlight.

16 I expect Judge Stein will instruct you that for
17 bribery-related charges, what matters is whether a thing of
18 value is demanded, given, or received in exchange for a promise
19 to take what is known as official action. The public official
20 does not have to take any action at all. The promise alone is
21 enough. Although, here, as I said, a lot more than that
22 happened.

23 Similarly, I expect that you'll be instructed that for
24 the obstruction charges, it is enough that a defendant try to
25 obstruct justice, not that he succeed. And finally, on the

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Opening - Ms. Pomerantz

1 foreign agent charges, I want to be clear that this case is not
2 about spying. Instead, I expect you'll hear that it is illegal
3 for a public official to agree to take certain kinds of action
4 for a foreign government. A public official cannot agree to
5 give certain kinds of help to a foreign government because he
6 is taking bribes or otherwise acting at that government's
7 direction.

8 You will learn more about these charges at the end of
9 the case, but these are some basic points to keep in mind as
10 you hear the evidence.

11 Now, how will we prove to you beyond a reasonable
12 doubt that the defendants are guilty of these crimes? We're
13 going to prove it to you in several different ways, and I'm
14 going to highlight just a few right now.

15 First, you are going to see evidence of the bribes.
16 You're going to learn that FBI agents searched Robert and
17 Nadine Menendez's home after a judge issued a search warrant.
18 And what did they find? Gold bars and over \$400,000 in cash
19 stashed throughout their home, in a safe, envelopes, bags,
20 jacket pockets, and shoes. You are going to see that gold and
21 cash.

22 But that's not all. When the FBI found those
23 envelopes of cash, they sent them out to be tested in a lab.
24 And what did those lab tests show? Multiple envelopes of cash
25 containing tens of thousands of dollars in total had Daibes'

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Opening - Ms. Pomerantz

1 fingerprints or DNA on them. And there's more. Each gold bar
2 that was found at the Menendez's house has a unique serial
3 number. And through the serial numbers, you'll learn the FBI
4 was able to trace those gold bars back to Daibes and to Hana.

5 How else are we going to prove our case to you?

6 Through the defendants' and their co-conspirators' own words in
7 text messages and e-mails. They will take you inside the
8 scheme, day by day, hour by hour, sometimes even minute by
9 minute. You're going to see Nadine tell Menendez long before
10 it was public that Hana's company was going to get that
11 monopoly. You're going to see Nadine text Menendez that Uribe
12 made arrangements for her to get that Mercedes. And you're
13 going to see Daibes text Menendez a picture of a gold bar, just
14 like the ones found in his house.

15 Now, Menendez was careful when he was committing
16 crimes. He was smart enough not to send too many texts.
17 Instead, he had Nadine do that for him. And sometimes, as you
18 will see, he told her not to put things in writing.

19 He used Nadine as his go-between to deliver messages
20 to and from the people paying the bribes. But you will also
21 see that she kept him updated. For example, you will see
22 Nadine sending Menendez messages about working with Egyptian
23 officials. You will see Nadine sending Menendez messages about
24 the New Jersey state investigation. And you will see her
25 sending Menendez messages about the bribes they were getting

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Opening - Ms. Pomerantz

1 out of this scheme.

2 The text messages will tell you what happened. As you
3 read those messages, you'll see the scheme unfold.

4 You're also going to hear from a number of witnesses.
5 You're going to hear from the officials Menendez promised to
6 influence. The USDA official, who Menendez called about the
7 monopoly. The New Jersey Attorney General who Menendez spoke
8 to about the state criminal case. And the U.S. Attorney for
9 the District of New Jersey, who Menendez spoke to about Daibes'
10 case. They will each tell you what Menendez said to them. And
11 as you listen to their testimony, remember that they didn't
12 know why Menendez was reaching out to them. But you will. It
13 was because Menendez was secretly being bribed by Hana and
14 Daibes.

15 You will also hear from Jose Uribe, the person who
16 gave Nadine \$15,000 in cash so she could make a down payment on
17 the Mercedes. The person who made monthly payments on that
18 Mercedes for years. He will give you an inside look at one
19 part of the bribery scheme. Uribe will explain how he paid
20 money in exchange for Menendez's promise to try to disrupt the
21 New Jersey investigation. He will describe for you the
22 conversations he had with Hana, Menendez, and Nadine about
23 this.

24 Now, Uribe has pled guilty to serious crimes. He pled
25 guilty to bribing Menendez, and he pled guilty to other crimes,

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Opening - Ms. Pomerantz

1 too. You'll learn that he has entered into a cooperation
2 agreement with the government. He will testify at this trial
3 in the hopes of getting a lower sentence. But let me be clear.
4 We are not asking you to like Uribe, or approve of what he has
5 done. But what you should do is pay close attention to his
6 testimony. If you do that, you will see how his testimony
7 lines up with the other evidence, like the defendant's own text
8 messages, financial records, phone records, and the testimony
9 of other witnesses.

10 Taken together, all of this evidence will prove that,
11 for years, Robert Menendez abused his position to feed his own
12 greed and to keep his wife happy; that Menendez put his power
13 up for sale, and Hana and Daibes were more than happy to buy it
14 from him.

15 You're going to see a lot of evidence and hear from a
16 lot of witnesses in this case. This evidence will come in
17 piece by piece, and it won't come in perfect chronological
18 order. But by the end of this trial, when you've seen and
19 heard all of the evidence, you will see how it all fits
20 together. You will see how it proves that Menendez put a price
21 on his power and then sold it to Hana and Daibes. At the end
22 of this trial, we will speak to you again to summarize the
23 evidence.

24 But between now and then, we're going to ask you to do
25 three things. First, pay close attention to the evidence.

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Opening - Mr. Weitzman

1 Second, follow Judge Stein's instructions on the law. And
2 third, use your common sense. The same common sense you use
3 every day to make all sorts of decisions in your own lives.

4 If you do those three things, you will reach the only
5 verdict that is consistent with the evidence, the law, and your
6 common sense. That Robert Menendez, Wael Hana, and Fred Daibes
7 are guilty.

8 THE COURT: Thank you, Ms. Pomerantz. That was the
9 opening statement on behalf of the government by Ms. Pomerantz.
10 You now will hear the opening statement by on behalf of
11 Mr. Menendez by Mr. Weitzman.

12 Mr. Weitzman.

13 MR. WEITZMAN: Thank you, your Honor. May I step up?

14 THE COURT: Of course.

15 MR. WEITZMAN: May I, your Honor?

16 THE COURT: Yes, sir.

17 MR. WEITZMAN: Ladies and gentlemen, our client,
18 Senator Robert Menendez, took no bribes. He did not accept any
19 cash, or gold, or cars, in exchange for anything he did as a
20 United States senator.

21 He's an American patriot. He has never, and is not, a
22 foreign agent for the government of Egypt. He did not violate
23 the law. Period. And the United States Attorney's Office
24 allegations otherwise is wrong. Dead wrong. Far from a bribe
25 taker, Senator Menendez is a lifelong public servant.

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Opening - Mr. Weitzman

1 On behalf of my partner Adam Fee and myself, we are
2 honored and privileged to represent him in this case.

3 Let me tell you some things about Senator Menendez
4 that you did not hear from the government. Bob, as he's known
5 to his friends and family, has been a public servant for over
6 50 years. He started off, even before he graduated from
7 college, running for office on the Union City Board of
8 Education. He's held positions on the local, state, and
9 federal level. After his stint on the Union City Board of
10 Education, he became the mayor of Union City. He then ran for
11 office on a statewide seat, was seated in the state assembly
12 and the state senate. And then, in 1993, 30 years ago, he won
13 a seat in the United States House of Representatives. He was a
14 congressman until 2006, and then in 2006, he became a senator
15 and he has served in the Senate proudly for the past 18 years.

16 His childhood, however, was a different story. He
17 grew up the son of Cuban refugees who fled a military
18 dictatorship in Cuba in the 1950s for a better life here in the
19 United States. When they fled Cuba, his family lost
20 everything. Their entire life savings. They had to rebuild
21 from nothing. He grew up just across the river in a tenement
22 in Union City, New Jersey. His dad was a carpenter, his mother
23 was a seamstress. He was the first person in his family to go
24 to college. He went to public school all the way through, and
25 then he eventually made his way through law school. Graduated

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Opening - Mr. Weitzman

1 from Rutgers University Law School in 1979.

2 Now, after law school, he could have signed up with a
3 law firm, fancy law firm, and made a very nice paycheck. But
4 he wasn't looking for a payday. He was committed to doing good
5 for the people of New Jersey and for his community. And that's
6 what he's been doing for 50 years.

7 Again, this was not the most lucrative path for him to
8 become a public servant, but it was the most rewarding one.
9 One that has led him improve the lives of so many in his
10 community, and in New Jersey.

11 THE COURT: Mr. Weitzman, I take it what you're
12 telling the jury is what you believe the evidence will prove as
13 opposed to what you yourself believe.

14 MR. WEITZMAN: Absolutely, your Honor.

15 THE COURT: I'd like you to make that clear as you go
16 forward.

17 MR. WEITZMAN: Thank you, I appreciate that.

18 The senator has been committed for the past 40 years
19 to helping the people of New Jersey, and the evidence will show
20 that on issues of health care, equity, anti-discrimination,
21 Senator Menendez has consistently fought for the people of New
22 Jersey, and this will be relevant in this case, because as the
23 prosecutor said, the actions that the senator took were actions
24 he took on behalf of his constituents.

25 I would be remiss if I didn't mention as well that

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Opening - Mr. Weitzman

1 he's a proud father of two grown children, who have similar
2 values that he has of doing good.

3 Now, at various points in his life, as the evidence
4 will show, Senator Menendez could have cashed out. He could
5 have retired as a senator.

6 MS. POMERANTZ: Objection.

7 THE COURT: Apparently that's what the evidence will
8 show.

9 MR. WEITZMAN: He could have retired, became a
10 lobbyist or a consultant, and made a very good paycheck.
11 Raising his children on a public servant salary wasn't always
12 the easiest thing for him to do. Bob didn't cash out.

13 THE COURT: Sir, once again, ladies and gentlemen, the
14 credibility of these lawyers is not at issue here. What this
15 lawyer is telling you, I believe, is what he thinks the
16 evidence will show. So don't think that what he is saying is
17 he believes it. Rather, one way or the other, for that
18 matter -- and that goes for all the lawyers. What's important
19 here is what the evidence shows.

20 Continue to make that clear.

21 MR. WEITZMAN: Yes, your Honor. Thank you.

22 THE COURT: And obviously, Mr. Weitzman is saying he's
23 making representations to you that he believes this is what the
24 evidence will show. Go ahead.

25 MR. WEITZMAN: Yes. Thank you, your Honor.

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Opening - Mr. Weitzman

1 You will see by the end of the case, after you
2 evaluate all of the evidence, that the government's allegations
3 that Senator Menendez sold his office and his loyalty to this
4 country are outrageously false. The government will be unable
5 to meet its burden, a burden that is the highest in the land,
6 the burden of proof beyond a reasonable doubt that Senator
7 Menendez did anything in exchange for a bribe. He did not ask
8 for bribes, he did not get any bribes. Not from Mr. Hana, not
9 from Mr. Daibes, not from Jose Uribe who the government
10 referenced. Not from anyone.

11 Mark my words: There will be no witness who steps
12 into this courtroom and says that they ever discussed a bribe
13 with Senator Menendez, or that they ever gave a bribe to
14 Senator Menendez. Not one witness. There will be no document
15 you will see, not one e-mail, not one text message, in which
16 Senator Menendez discusses a bribe, accepts a bribe, or asks
17 for a bribe. Not one message.

18 The evidence will show that the government has been
19 investigating this case for years. They obtained search
20 warrant after search warrant on every phone, iCloud account,
21 home, business.

22 MS. POMERANTZ: Objection, your Honor.

23 THE COURT: Sustained. The actions of the government
24 are not at issue here. Proceed.

25 MR. WEITZMAN: And yet despite those search warrants,

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Opening - Mr. Weitzman

1 there won't be a single piece of tangible evidence that shows
2 that the senator accepted, requested a bribe. Not one piece.

3 Instead by the end of this case, you will see that
4 each and every action he took was consistent with his duties as
5 a senator.

6 In short, the evidence will show Bob was doing his job
7 and he was doing it right. When he met with Egyptians and
8 Qataris, he was fulfilling his important role engaging in
9 diplomacy on behalf of the United States. When he called
10 federal and state officials to raise complaints of
11 discrimination or unfair treatment, he was fulfilling his
12 important role of advocating on behalf of constituents. You'd
13 want your representative to act in the exact same way, and he
14 did these things, not for bribes, but because that's what
15 dedicated public servants do. When they learn of possible
16 discrimination or government overreach, or government abuse,
17 dedicated public servants reach out to those who are committing
18 those abuses or accused of them.

19 By the end of this case, ladies and gentlemen, you
20 will see that the prosecutor's entire case rests on little more
21 than speculation and guesswork. Not actual evidence of bribes
22 to Senator Menendez.

23 Now of course there is an elephant in the room. A
24 green and gold elephant. The prosecutor referenced cash and
25 gold and cars over 50 times by my count. Why? Because I

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Opening - Mr. Weitzman

1 submit the prosecutors want you to jump to the conclusion that
2 those are the bribes.

3 MS. POMERANTZ: Objection.

4 THE COURT: I'll allow that, proceed.

5 MR. WEITZMAN: And to convict based on that evidence.
6 Who has gold bars in their home? Who has so much cash in their
7 home? Smells a bit fishy, you might be thinking to yourself.
8 I'll acknowledge, I'll acknowledge it's reasonable when you
9 just hear those words to think it smells a bit weird. Resist
10 that urge, ladies and gentlemen. Listen to the evidence.

11 They want you to be blinded by the gold and the cash,
12 but look at all the evidence and you will see there are
13 innocent explanations for the gold and the cash. And the Court
14 will instruct you at the end of the case that you should
15 evaluate all of the evidence when reaching your determination.
16 Not just one piece.

17 Each of you in this jury was chosen by Senator
18 Menendez, by Mr. Hana, by Mr. Daibes, by the government, and by
19 the Court, because we have confidence that you will fulfill
20 your solemn oath and fulfill your duties responsibly,
21 honorably, impartially, without passion or prejudice, and
22 consistent with the oath you took to evaluate all the evidence,
23 and that's all we'll be asking you to do. When you do that, we
24 submit you will conclude that the government has not met its
25 burden to prove beyond a reasonable doubt that Senator Menendez

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1 took any bribes.

2 Let's start, though, with the cash and the gold.

3 First, the gold bars. Where are the gold bars found? Well,
4 let me tell you. It will be undisputed the gold bars were
5 found in a closet that was a locked closet. This is the closet
6 on your screen. It is Nadine's closet. In fact, when you look
7 inside the closet, you will see that it is filled with all of
8 Nadine's clothing. Women's clothing. At no point in time, the
9 evidence will show, did the senator have a key to her locked
10 closet, and he did not know of the gold bars that existed in
11 that closet, one in a safe locked behind that closet, and then
12 another behind -- underneath clothing under the bottom of the
13 closet. He did not know that she had any gold bars provided by
14 Fred Daibes.

15 Now, he knew that she had gold. He knew it. But he
16 didn't know it was provided by Fred Daibes. What he knew, and
17 what the evidence will show, ladies and gentlemen, is that he
18 knew she had family gold. How could he not know of the gold
19 that's in the closet you might be asking. They live in the
20 same house. They're married, the government said.

21 Before I answer that, let me tell you a short personal
22 story about my own life because I think it's relevant and might
23 help you answer this question. You see, I'm an identical twin.
24 I grew up about 15 miles away from here, and even though we
25 lived together, we look exactly alike, my twin brother and I --

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Opening - Mr. Weitzman

1 MS. POMERANTZ: Objection, your Honor.

2 THE COURT: Sustained. Stick to the evidence.

3 MR. WEITZMAN: The point, ladies and gentlemen --

4 THE COURT: I never knew you were a twin.

5 MR. WEITZMAN: The point, ladies and gentlemen, is
6 that you can't judge what one person does solely because of who
7 they associate with or who they live with or who their friends
8 are or who their relatives are.

9 Justice, our system of justice, requires that you look
10 at the evidence and judge what evidence makes them culpable or
11 innocent. That's the point.

12 So let me bring you back to Bob and Nadine. Bob was
13 married for 29 years before he got divorced, and then he was
14 single for many years, about 15 years, and then he met Nadine.
15 Nadine was a bit younger than Bob, approximately 13 years, and
16 she was dazzling to Bob, as the evidence will show. She is a
17 beautiful and tall international woman who grew up part of her
18 life in Lebanon. She speaks four languages. She's highly
19 educated, having received both a bachelor's and master's degree
20 from NYU.

21 Bob fell for her. She calls him *mon amour de la vie*,
22 which is French for the love of my life. They met in early
23 2018 and then they got engaged in October 2019, less than
24 2 years after meeting. They got engaged on a trip to India.
25 As the evidence will show Bob, serenaded Nadine at the Taj

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1 Majal in India, sang the love ballad from the Greatest Showman
2 "Never Enough." It was very romantic. I won't do it justice.
3 Bob can sing. I can't. Bob and Nadine then got married in
4 October 2020. It was a small and intimate wedding, nothing
5 fancy.

6 From the time that they started dating in early 2018,
7 until about April 2020, Bob and Nadine lived apart. Let me say
8 that again. From the time that they got married in early --
9 from the time they start they started dating in early 2018
10 until about April 2020, after the start of COVID, Bob and
11 Nadine lived apart. Different residences. Bob lived in an
12 apartment in a townhouse on the first floor in D.C., paid about
13 \$1600 for that townhouse. And he also had an apartment in New
14 Jersey, a small one bedroom -- both of these were small one
15 bedroom apartments here.

16 Bob moved into Nadine's home in April 2020. She has a
17 home in Englewood Cliffs, New Jersey. She had been living in
18 that home for approximately 20 years. This was her home, in
19 her name. This was her mortgage, in her name. Bob moved into
20 her home. But even after he moved in, they largely continued
21 to live separate lives.

22 Here is a picture of their home where he moved into.

23 When they got married, Bob was 66 years old and Nadine
24 was 53. Their children were already adults and moved out of
25 the home. So unlike a young couple who might be starting a

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1 family, open bank accounts together, share credit cards, start
2 a life together, Bob and Nadine came to this marriage late in
3 their lives. They didn't share, as the evidence will show,
4 they did not share any bank accounts, any credit cards, or any
5 other financial obligations. They had separate finances. The
6 house that Nadine owned was in her name, not Bob's, and she had
7 a mortgage on it that Bob did not pay, and didn't receive the
8 statements for.

9 Bob spent most of the workweek in D.C., and Nadine
10 spent most of the week in New Jersey, although she occasionally
11 did visit him in D.C. They even had a separate cell phone
12 plan. They didn't sign up for a family cell phone plan like
13 the rest of us.

14 Bob and Nadine's separate lives really help answer how
15 it is that he did not know about the gold bars from Fred
16 Daibes. Given their relationship, their separate lives, and
17 the fact that Nadine kept those gold bars in a locked closet,
18 is it really surprising that Bob might not know that these gold
19 bars were from Nadine?

20 Indeed, the evidence you'll see in this case will
21 paint a very different picture of the relationship between Bob
22 and Nadine than the one the government just depicted.

23 Let me say this about Nadine. Nadine had financial
24 concerns that she kept from Bob. She was often supported by
25 others, by a former husband or by her wealthy family. But

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1 you'll understand, I suspect, why she kept that from Bob. When
2 someone starts dating someone else that they may be interested
3 in marrying, the first thing you say is not, hey --

4 MS. POMERANTZ: Objection.

5 THE COURT: Yes. Sustained.

6 MR. WEITZMAN: The evidence will show that Nadine was
7 hiding her financial challenges from Bob, and I suspect you can
8 understand why.

9 She kept things from him. She kept him in the dark on
10 what she was asking others to give her. She was outgoing; she
11 was fun loving. But she wasn't going to let Bob know that she
12 had financial problems.

13 So what did Nadine do? She tried to get cash and
14 assets any which way she could. As the evidence will show, she
15 asked family, she asked friends, she asked Fred Daibes, she
16 asked Will Hana, she asked for Jose Uribe. But she kept Bob
17 sidelined from those conversations. And you'll see that in
18 black and white. Nadine made sure Bob was kept out of the
19 discussions regarding money. And the evidence will show that
20 Nadine had these relationships with Will Hana, Fred Daibes,
21 Jose Uribe, long before she met Bob.

22 So whether or not she got money or gold from her
23 friends to help support her is not the issue you need to
24 consider in this case. I submit the real question for you is
25 what did Bob know. And the evidence will show that Nadine did

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1 not let Bob know what she was doing to get more money, either
2 before they got married or after.

3 Remember that game when some of you were kids or
4 younger adults called Where's Waldo?

5 MS. POMERANTZ: Objection.

6 MR. WEITZMAN: I gave them this slide, your Honor.
7 There was no objection.

8 THE COURT: Continue.

9 MR. WEITZMAN: In this case, we need to figure out
10 Where's Bob? You won't see Bob anywhere on the page when
11 Nadine is talking to friends and family about getting money,
12 because he wasn't there. He wasn't in those conversations. He
13 didn't know about the dealings that Nadine had with those
14 folks.

15 The government will show you hundreds of
16 communications involving Nadine, Will Hana, Fred Daibes, and
17 others. When you see those, you can't just assume that Bob
18 knows about them or is involved in them. He was not. He was
19 in D.C. running the business of running this nation's business.
20 Every time the government shows you some piece of evidence
21 involving Nadine, just ask yourself, Where's Bob? I'll tell
22 you where. He was doing his job in D.C., in the United States
23 Senate.

24 Now, in the government prosecutor's opening, you can
25 take that down. Thank you. In the --

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Opening - Mr. Weitzman

1 THE COURT: Yes, thank you.

2 MR. WEITZMAN: She mentioned a few Google searches
3 that were done on Bob's phone for the price of a kilogram of
4 gold. The government will claim that the timing of those
5 searches must indicate that he knew about Fred Daibes' gold
6 bars to Nadine.

7 This doesn't prove what the government is asking you
8 to reach for. In fact, the evidence will show that the senator
9 searched for the price of gold on many other occasions and
10 other precious items, too. Why did he do that? It wasn't
11 because he just got a bribe from Fred Daibes as the government
12 submits. Rather, the evidence will show that the searches were
13 being conducted because Nadine's family has long owned a lot of
14 gold for decades and decades. The evidence will show that.

15 (Continued on next page)

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1 MR. WEITZMAN: The evidence will show that. Much of
2 that gold was left to Nadine. The evidence will show that.

3 You see, Nadine and her family are originally from
4 Lebanon, and in many parts of the Middle East, including in
5 Lebanon, they collect gold and other precious items, silver and
6 jewels. And they do that for two reasons:

7 One, because local currencies in the Middle East can
8 be unstable, historically; and two, because it's cultural.
9 They like to give gold and silver and other precious items as
10 gifts for baby namings or showers or weddings or engagements.
11 And the evidence will show -- the evidence will show -- that
12 Nadine's family had a lot of gold, including kilogram gold
13 bars, several of them, and that they had them for many, many,
14 many years. And they were left for Nadine many, many, many
15 years ago. And these family assets are some of the ways that
16 Nadine helped subsist herself. They helped Nadine out, because
17 when she needed money she could sell those items. And you'll
18 learn that she did sell those items.

19 Now, you all know some people are not great at saving.
20 They get a buck, they spend a buck, or two. Eventually, Nadine
21 needed to sell those kilograms of gold bars that she had from
22 her family, and she did that for a perfectly legitimate reason.
23 That's why there were searches on Bob's phone for the price of
24 gold.

25 So why search for the gold multiple times?

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1 Well, one of the things you'll see evidence of is the
2 price of gold actually fluctuates. It's not stable like the
3 United States dollar. It goes up and down. You probably all
4 know this about commodities. They go up and down, up and down,
5 up and down, and so sometimes you want to check what the price
6 is. That's why there were multiple searches on Bob's phone.
7 The price of gold started off five years ago at 1,300, and now
8 it's \$2,300 an ounce. And you'll learn the reason why Nadine
9 needed to sell gold at that precise time that those searches
10 were being done is because she was looking to pay off her
11 mortgage. You'll see documents that show that. So there's
12 nothing surprising about the searches of gold on the senator's
13 phone at the exact same time that Nadine is looking to sell
14 gold to pay off her mortgage.

15 Indeed, you'll see evidence that proves that Bob
16 thought that the gold Nadine had was from her family, not from
17 Fred Daibes. You see, when you're a sitting senator, you have
18 a financial disclosure obligation. You need to make those
19 disclosures every year, and they include some of your and your
20 spouse's assets, incomes, loans and the like.

21 After Bob and Nadine got married, the evidence will
22 show, on May 10, 2021, Bob tried to fill out those forms in
23 good faith, and he asked Nadine for a bunch of information --
24 gifts from the wedding, the value of the house, mortgages and
25 home equity lines and any income Nadine earned. He didn't know

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1 this information. He needed it from Nadine. And then Senator
2 Menendez reported what he got on his financial disclosure
3 forms. But he wasn't told everything at the time by Nadine.
4 Remember, this was their second marriage. In early 2022,
5 several months after this, he learned that Nadine had gold bars
6 that she had not told him about from her family. It was
7 Nadine's family gold that he learned about.

8 So what did he do?

9 You'll learn that he quickly contacted Senate
10 officials, including a woman that works at the Senate ethics
11 office to disclose the gold he learned of.

12 Next slide.

13 And this is the disclosure he learned of. On March
14 16, 2022, he disclosed to the world that he has gold bars worth
15 between \$100,000 and \$250,000 and that the owner was his
16 spouse, Nadine. And he understood those gold bars were
17 Nadine's family's gold, not any gold from Fred Daibes.

18 Remember, he discloses this -- I'll tell you right now
19 he discloses this before he ever learned of an FBI
20 investigation. Before there ever was a raid on his house, he
21 discloses this. He's not trying to hide his assets and not
22 disclose them. In fact, the fact that Senator Menendez
23 disclosed these gold bars is proof that he didn't receive
24 bribes knowingly. If the senator's getting gold bars as bribes
25 and the FBI has no idea, you'd agree with me it would be the

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1 dumbest thing in the world to add those gold bars to your
2 Senate financial disclosures.

3 Now let's discuss the cash that was found in Nadine's
4 home. As I mentioned, the senator moved into Nadine's home in
5 mid-2020, during the height of Covid. She owned the home for
6 over 20 years when Bob moved in. This was her home, not his.
7 And when the senator moved into Nadine's home, he came with all
8 of his things. He came with a lot of cash too, bags of cash,
9 which he stored in the basement of Nadine's home. He stored
10 them in envelopes. He stored them with rubberbands and with
11 Post-its. He stored them in his jacket and in his boots and
12 other articles of clothing.

13 The cash that was found in the basement of Nadine's
14 home was the senator's cash, which he withdrew over 30 years.
15 He withdrew, multiple times a month, between 400 to \$500 each
16 time for the past 30 years. And you'll see bank records that
17 confirm such withdrawals. I know that sounds odd. Let me
18 explain what the evidence will show about that practice.

19 This all relates to what I told you about earlier with
20 Bob's upbringing. You know, a famous man once said: We are
21 not makers of history; we are made by history.

22 The past and the present are interconnected, and we,
23 as humans, are shaped by the experiences, the narratives, and
24 the events that have unfolded in our parents', our
25 grandparents' lives. I'm the grandson of Holocaust survivors.

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1 MS. POMERANTZ: Objection.

2 THE COURT: Sustained. Sir, this litigation is not
3 about you or any of the lawyers. Your credibility is not to be
4 put at issue here. Talk about what you believe the evidence
5 will show.

6 MR. WEITZMAN: Common sense shows that our experiences
7 and our parents' and our grandparents' experiences can have a
8 deep impact on our behavior. It's not always rational. It's
9 not always logical, and we can't always explain it. And so the
10 same is true for Senator Menendez. I told you he was the son
11 of Cuban refugees. You'll learn about that. His family
12 emigrated to the United States in the early 1950s. His family
13 lost everything en route, their entire life savings. The only
14 thing they had left was some cash that was stored away and
15 hidden in a grandfather clock. They fled with nothing except
16 for that cash. Those stories he heard as a kid, which you will
17 learn about, and other things that have happened in his life
18 have had a deep impact on him. From a young age, the senator
19 came to learn the value of having cash on hand in your home.

20 So what did the senator do?

21 For the past 30 years, the senator's withdrawn from
22 his own bank account, and you'll see these records,
23 approximately 400 to \$500 in cash multiple times a month, which
24 he then stored in his home. You'll see evidence that confirms
25 these withdrawals over the course of many decades. This is a

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1 picture of just a few bills that were seized, that were found
2 in the senator's home. Notice the year of the series year on
3 these bills -- 1988, 1985.

4 Next slide.

5 Here's a \$100 bill with a series 2006. You'll learn
6 that the older the series the less likely it is to be in
7 circulation, and so these were not bills given as bribes in the
8 past few years, as the government alleges. These and many
9 other bills have long been stored by the senator in his home
10 because he's withdrawn them years ago, when these bills were
11 still in circulation.

12 Now, the government mentioned in its opening that
13 there were fingerprints and DNA found on certain envelopes of
14 cash. Pay close attention to the evidence when it comes in.
15 You will not see any fingerprints and any DNA on the senator's
16 cash, not one bill. And you will learn that, with one
17 surprising exception that I will explain in a moment, every
18 fingerprint and piece of DNA that was tied to Fred Daibes is
19 found -- where? -- in his wife's closet or in her safe deposit
20 box at a bank.

21 This is where the senator, the master bedroom of the
22 senator's home. This is a layout, and the fingerprints that
23 I'm pointing to were all found in the closet beside room B. It
24 was a locked closet, as I noted. It was Nadine's closet, not
25 the senator's closet. The senator did have his own closet.

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1 Next slide.

2 It was in a different room. This was the senator's
3 closet. And you know what? Not one envelope of cash, not one
4 gold bar was found in the senator's closet.

5 Now, as I mentioned, you will learn that there was an
6 envelope that was found in the basement among the senator's
7 belongings that contained a fingerprint from Fred Daibes.

8 That's not surprising, though. The FBI in this case collected
9 thousands of items and tested hundreds for fingerprints. Of
10 all the items they collected, they only found one in the
11 senator's belongings with Fred Daibes's fingerprint. They
12 found more fingerprints from the FBI agent who collected and
13 contaminated the scene than they did from Fred Daibes in his
14 basement. If anything, if the senator was taking bribes,
15 wouldn't you expect more fingerprints in the senator's
16 belongings?

17 In any event, you will learn that the senator and
18 Daibes have had a 30-year friendship. They've been friendly
19 for a very long time. Would you be surprised to find one of
20 your friend's fingerprints among your belongings? On a book or
21 an envelope? This isn't a murder weapon, where the fingerprint
22 proves who the culprit is. This is an envelope, and among
23 friends who have a long relationship, it would not be a
24 surprise to find a single envelope with a fingerprint in his
25 belongings among the hundreds of envelopes that were seized,

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1 hundreds of fingerprints that were tested. Excuse me.

2 As for the fingerprints on envelopes in Nadine's
3 closet and safe deposit box, keep an open mind. Don't just
4 blindly accept that those envelopes reflect bribes. There are
5 innocent explanations for Daibes's fingerprints on these
6 envelopes in Nadine's closet and safe deposit box. The truth
7 is Fred Daibes never bribed Bob, and Bob never took a bribe
8 from Fred Daibes.

9 I want to talk about another important aspect of this
10 case, and that's something called constituent services.

11 Throughout his career, Senator Menendez tried to help
12 various people and companies located in New Jersey, and you
13 will see documents and hear from witnesses that show he was
14 trying to do that in this case, because that was his job.
15 That's what he's there to do. None of these actions were
16 illegal. A senator's job in Congress is more than just
17 proposing or voting on legislation. It also includes what's
18 called constituent services, which is just a fancy term for
19 trying to provide nonlegislative services to people in your
20 state, in your constituency. Members of Congress have engaged
21 in constituent services for years. It's an important part of
22 their job.

23 You'll learn that the senator has a large staff of
24 people assigned to help with constituent services. So do the
25 other 99 senators in the United States. They do all sorts of

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1 things on behalf of their constituents. When someone discovers
2 right before an international trip that their passport is
3 expired, they can call the senator's office and get an
4 expedited appointment. When a New Jersey resident has a family
5 member who's having a hard time getting a visa to come into the
6 United States, call your senator's office. They'll help you
7 get an appointment. When a New Jersey company's having an
8 issue with some bureaucracy or red tape or some bureaucrat in
9 the federal government, you can call your senator's office and
10 try to get assistance. And when someone sees discrimination or
11 experiences discrimination in their state or selective
12 prosecution, you can contact your senator and ask them for
13 assistance.

14 You will learn that every action the government claims
15 the senator took in this case as a corrupt action, whether it
16 was a phone call or a meeting or an introduction, each time he
17 was acting lawfully, consistent with his duties as a United
18 States Senator. Each and every time.

19 So the question you'll be asked at the end of this
20 case is not whether the senator tried to help particular New
21 Jersey residents. He did that, as he should. That's his job.
22 Nor is the question whether he somehow showed favoritism for
23 New Jersey residents who are his friends or his wife's friends.
24 That's not illegal. You may not like it, but it's not illegal.
25 He's permitted to provide constituent services for his friends

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1 and his wife's friends or his girlfriend's friends in the same
2 way that he's permitted to provide constituent services for any
3 New Jersey resident. You might not like it, but it is not a
4 crime, because listening to a friend is not a crime.

5 The question you'll be asked is whether he took an
6 official act in exchange for some personal benefit or whether
7 he promised to take an official act in exchange for some
8 personal benefit. The judge will provide you instructions on
9 what an official act is. Not everything a senator does is an
10 official act. You'll decide at the end of the case whether the
11 phone calls and the introductions were official acts.

12 I submit, though, that after you review the evidence
13 the government will be unable to prove any agreement or any
14 exchange of an official act for any personal benefit. As I
15 mentioned, there won't a single witness who walks into court
16 and says that they discussed a bribe or gave a bribe to Senator
17 Menendez -- not one -- not even the government's cooperating
18 witness who you heard about, José Uribe. We'll have a lot to
19 discuss at the end of the case about him, about his lies and
20 his cheating and his crimes and all the ways he's been
21 incentivized to continue doing all of them.

22 But here's the important thing about him. It is what
23 even he does not say about this case. Mark my words. You will
24 never learn he never discussed a bribe with Bob. He never
25 mentioned money or a car to Bob. He never mentioned any of

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1 these things to Bob, except he mentions one thing: that he and
2 his friends are the victim of selective prosecution and
3 discrimination; that Latino truckers who are his friends were
4 being targeted unfairly by the New Jersey Attorney General. Is
5 that what you would expect if Bob was in on a bribery scheme?
6 I think not.

7 So, the prosecutor mentioned three different schemes,
8 as she called them. I want to talk about those three schemes
9 for a bit, because each of them fits very neatly into this
10 bucket of constituent services that we discussed.

11 First, the government charged Senator Menendez with
12 being an agent of a foreign principal. Here, Egypt. And they
13 told you a story about how he took orders from Egyptians in
14 order to do Egypt's bidding. The evidence, however, will show
15 no such thing actually happened.

16 Let me first say what I think should be obvious to
17 everybody, and the judge already instructed. The indictment
18 itself is not evidence. It's words that the prosecutors put on
19 a piece of paper in order to advise the senator and the public
20 of the charges in the case.

21 MS. POMERANTZ: Objection.

22 THE COURT: Yes. Sustained. The indictment, as a
23 matter of law, is an instrument that is voted on by a grand
24 jury, and it issues from the grand jury.

25 Proceed.

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1 MR. WEITZMAN: Thank you.

2 And so let me turn to the government's allegations
3 involving Egypt.

4 As you learned, Senator Menendez was the chair of the
5 Senate Foreign Relations Committee, and in that role he's
6 engaged in diplomacy on behalf of the Senate, just as the
7 President of the United States is engaged in diplomacy on
8 behalf of the executive branch. And you'll learn that the
9 Senate runs its own foreign policy. And to that end, the SFRC,
10 the Senate Foreign Relations Committee, can decide how it wants
11 to prioritize foreign AID and foreign affairs. And you will
12 see that the United States has provided military aid to Egypt
13 for decades, to the tune of billions, tens of billions of
14 dollars.

15 The evidence will show that both before 2018, when the
16 government alleges that the senator was on the take from Egypt,
17 and after 2018, Senator Menendez had a consistent position, and
18 it was a nuanced position. You will learn that Senator
19 Menendez in public statements said that Egypt is an important
20 strategic partner to the United States in the United States's
21 fight against terrorism, but Egypt needs to do better on human
22 rights. He said that before 2018, and he said it after 2018.
23 And consistently, even during the time period that the
24 government alleges that he's a foreign agent for Egypt, he is
25 criticizing Egypt. He is taking them to task, and he's telling

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1 them they need to do better on human rights.

2 Indeed, in 2019, the evidence will show, while he's
3 allegedly an agent for Egypt, he's writing to the secretary of
4 state, Mike Pompeo, pressing him to press Egypt on human
5 rights. He says we have serious concerns about the erosion of
6 political and human rights in Egypt. In fact, you'll learn
7 that at the precise time that the government alleges he has
8 these meetings as a foreign agent, he's having face-to-face
9 meetings in Egypt with President El-Sisi that are monitored by
10 the ambassador and Senate Foreign Relations Committee.

11 And what does he do?

12 He takes President El-Sisi, the military dictator, to
13 task and he tells him you need to do better on human rights.

14 Does that sound like someone who's on the take from
15 Egypt or a foreign agent? Do you think that if Senator
16 Menendez, if President El-Sisi thought that Senator Menendez
17 was in his pocket, he would stand for Senator Menendez coming
18 into his office and telling him to do better? Of course not.

19 And let me say this. You've heard allegations about
20 military aid. I think she referenced it a bit. What's
21 important to know is that every arms sale to Egypt, every
22 single one, every one of them is something that the United
23 States president and the State Department wants and has
24 approved and has requested. The evidence will make that clear.
25 The prosecutor didn't mention it, but that's the truth.

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1 Senator Menendez didn't hold some magic wand. The
2 administration proposes it, and multiple members of Congress
3 need to review it. That's the process. Senator Menendez was
4 not doing Egypt's bidding. He was working consistent with the
5 interests and requests of the United States government, and
6 that's it.

7 Now, the prosecutor mentioned a few other things. She
8 mentioned some letter that the senator helped draft and she
9 mentioned that he released some information that she called
10 sensitive information. He had legitimate reasons to do those
11 things. Keep an open mind. The evidence will come in, and pay
12 attention to it, because you will learn that there is another
13 side to the story. It is not the story the prosecutor's just
14 told you. By the end of this trial, the evidence will make
15 clear that at each point Bob was acting on behalf of the United
16 States's interests, not Egypt's.

17 Indeed, there's one word that describes what Bob was
18 doing, and I mentioned it earlier in my opening. And that's
19 the word "diplomacy." Diplomacy requires a carrot and a stick.
20 You'll learn that. You guys know that. It's common sense.
21 Sometimes you give in to motivate the other side to come to
22 your position. Sometimes you stand firm and you resist and you
23 fight in order to get them to come to your position. Senator
24 Menendez was doing a diplomacy dance with a military dictator,
25 and that is a complicated thing to do. And sometimes you give

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1 in and sometimes you fight. But he hasn't changed his
2 position, not one inch, since the military dictatorship started
3 in the early 2010s.

4 Now, the prosecutor's also advanced a story about Bob
5 receiving bribes from Wael Hana and his company IS EG in order
6 to protect IS EG's monopoly, what they called the halal
7 monopoly. The evidence will not support the government's
8 allegations. Let's start with Wael Hana's company. It's
9 called IS EG, and it's a company that does halal
10 certifications. Halal is basically to Muslim people and
11 majority Muslim nations the same thing as what kosher is to
12 Jewish people. It's a way to butcher and handle food.

13 The important thing is that the evidence will show
14 that it's Egypt that gets to decide who gets to import halal
15 meats and to certify halal meats into Egypt. It's not for the
16 United States to decide. And in early 2019, for whatever
17 reason, Egypt decided that it would give IS EG, Will Hana's
18 company, that authorization.

19 Now, IS EG is located, headquartered across the river
20 in New Jersey, and it has operations all over the world, in
21 multiple countries. And the crux of the government's
22 allegations with respect to IS EG is that the senator reached
23 out to a particular U.S.D.A., U.S. Department of Agriculture,
24 employee named Ted McKinney. We don't dispute there was a
25 call. It lasted a mere two to four minutes. You'll see all

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1 that, but there was no pressure applied on this call, as the
2 government alleged. The only contact the senator had was this
3 few-minute phone call, and the evidence will show that in that
4 call what Senator Menendez was doing was asking McKinney, this
5 individual, about the accuracy of a press report that had been
6 issued regarding IS EG. That's what he did.

7 Now, you'll learn about all the meetings and the prep
8 that Mr. McKinney had with the government and how his story has
9 changed. But the documents you'll see right after the phone
10 call will confirm that all Senator Menendez did was ask about
11 the accuracy of a press report regarding IS EG.

12 And here's another thing that you'll learn about at
13 trial. You'll learn that the U.S.D.A., the U.S. Department of
14 Agriculture, has absolutely no authority over the halal process
15 and certifications and monopoly granted by Egypt. Egypt did
16 not need to get the U.S.D.A.'s authorization. Egypt did not
17 need to consult with the U.S.D.A., and the allegations that
18 were made to Bob was that the U.S.D.A. was overstepping, and so
19 Bob made the phone call to find out what's going on. This was
20 not out of the ordinary. As senator, Senator Menendez has
21 previously reached out to federal agencies on multiple
22 occasions in order to help constituents. That's his job.

23 When Bob reached out to Ted McKinney, he was doing his
24 job and he was doing it the right way. He did not threaten
25 Mr. McKinney. He took no official action to pressure

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1 Mr. McKinney, and he didn't do anything other than what a
2 senator should do to advocate on behalf of a local constituent
3 business.

4 Let me add this. Even if Senator Menendez had told
5 Mr. McKinney to shut it down, or whatever it is that the
6 prosecutor said he said, none of that would be illegal either.
7 Let's remember everybody's role here. Mr. McKinney works at
8 the U.S.D.A. That's the executive branch of government.
9 Senator Menendez works for the Senate. That's the legislative
10 branch of the government. There are separation of powers, and
11 importantly, there are checks and balances. Senator Menendez
12 can't tell Mr. McKinney what to do. He has no power or
13 authority over him, but he could ask for information. And
14 that's precisely what he did. So even if Bob had a call with
15 Mr. McKinney that got a bit contentious, and there's no
16 evidence to support that, we submit, none of that would be
17 illegal, because the evidence will show that a senator is
18 allowed to complain to a federal agency or a federal agent.
19 He's allowed to advocate to a federal agency on behalf of a
20 company that is a constituent. And he's even allowed to yell
21 at a federal employee. None of that is illegal. It's his
22 constitutionally protected role.

23 Now, in her opening, the prosecutor claimed the
24 senator was bribed to call Ted McKinney, and she mentioned a
25 couple of things, including a mortgage payment and some

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1 consulting fees that were paid to a -- I think she called it a
2 sham or a straw company. It's just a consulting company. Lots
3 of people have consulting companies. They incorporate when
4 they become consultants. Let me spend just a few minutes on
5 this.

6 First, both the mortgage payment and the consulting
7 fees were paid in 2019, in the summer of 2019. Remember where
8 Bob and Nadine's relationship was at the time. They were still
9 dating. They weren't even engaged. Bob wasn't even in the
10 house. He didn't move in until April of 2020, and they weren't
11 even close to getting married. So Nadine's getting her
12 money -- as we said, there are things she's keeping from Bob --
13 and Bob does not necessarily know what's going on with Nadine.
14 They're dating. And by the way, the consulting payments, those
15 are on-the-books payment. Those are recorded and recorded.
16 They're paid for three months, a total of three months, \$10,000
17 a month to Nadine. And if the theory of the government is that
18 that's a bribe by IS EG and maybe even Egypt -- it was unclear
19 to me what she was suggesting -- why was it cut off at the
20 three months?

21 MS. POMERANTZ: Objection, your Honor.

22 THE COURT: No. I will allow that. That's
23 speculation that he wants the jury to engage in, based on the
24 evidence.

25 MR. WEITZMAN: I submit that after you hear all the

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1 evidence, you'll conclude that those fees are not bribes to the
2 senator but legitimate payments to IS EG -- from IS EG to
3 Nadine, who was actually doing work for IS EG. And you'll
4 learn about that, ladies and gentlemen.

5 Now, let me move on to José Uribe, and I appreciate
6 your patience, ladies and gentlemen. I know it's been a long
7 opening.

8 Due process and fairness, as you will learn, are
9 principles that the senator holds dear. And he also holds dear
10 the principle of equality under the law. Over and over again,
11 Bob has advocated for people who are the underserved or are
12 being treated unfairly under law.

13 MS. POMERANTZ: Objection.

14 MR. WEITZMAN: I'm talking about this case, your
15 Honor. In this case he's doing that.

16 THE COURT: Stick to the evidence, sir, not
17 sermonizing.

18 MR. WEITZMAN: As the highest ranking Latino senator,
19 Bob has been and is in this case a champion for the Latino
20 community, which is why --

21 MS. POMERANTZ: Objection, your Honor.

22 THE COURT: Same point. Same point.

23 MR. WEITZMAN: Yes, your Honor.

24 But that is the reason why --

25 THE COURT: You can go to specific evidence that you

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1 think will come in, but not overarching generalizations.

2 MR. WEITZMAN: That is why, ladies and gentlemen, Bob
3 Menendez advocated for those truckers that you heard about.
4 They were Latino truckers, and Bob was told by individuals
5 involved in the investigation, including the lawyers, that
6 these Latino truckers were being selectively prosecuted, that
7 they were being treated differently than other truckers in New
8 Jersey and that the New Jersey Attorney General's Office was
9 abusing its power. Those are serious accusations, and when one
10 makes those accusations to a sitting senator, and not just any
11 senator, the highest ranking Latino senator in the United
12 States, it is for him to look into them. And that's exactly
13 what he does. That's his job.

14 In the government's telling, Senator Menendez exerted
15 pressure and influence on the attorney general of New Jersey.
16 This is a picture of Gurbir Grewal, the then-attorney general.
17 You will learn of any pressure that was engaged in by Senator
18 Menendez. All he did was tell Attorney General Grewal to look
19 into allegations of selective prosecution. He did not ask, the
20 evidence will show he did not ask for any particular outcome in
21 the case and that he did not put any pressure on Attorney
22 General Grewal. He didn't threaten to haul him to Congress.
23 He didn't threaten to withhold any funds.

24 The New Jersey Attorney General will even acknowledge
25 to you that he's not afraid of Senator Menendez and Senator

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1 Menendez has no power over him. He's more afraid of state
2 senators than he is federal senators, because the state
3 senators can control the purse, when the United States Congress
4 cannot control the purse of his office.

5 So the government is unfairly twisting, as the
6 evidence will show, a senator doing his job for his
7 constituents into some sort of criminal action when it was not.
8 Nor was it uncommon, ladies and gentlemen, for Senator Menendez
9 to advocate on behalf of his constituents with an attorney
10 general. You'll learn of other instances when he did just
11 that.

12 Let me tell you one other thing that the government
13 did not mention in its opening. The senator's call to the New
14 Jersey Attorney General had absolutely no effect on the
15 cases -- zero effect -- whatsoever. Those cases were resolved
16 on their own merits. The trucker, Elvis Parra, got a
17 probationary sentence because there were holes and problems in
18 the case. The evidence will show that. It had nothing to do
19 with Senator Menendez whatsoever. Still, the government claims
20 that Bob received a bribe.

21 They emphasized this Mercedes convertible. How many
22 times did they talk about how expensive and fancy this luxury
23 car was? The evidence will not show that that was a bribe for
24 Bob. In fact, here's a fact that you should remember. Before
25 Nadine started dating Bob, she had a Mercedes. She got into a

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1 car accident. She couldn't drive that Mercedes. Therefore,
2 she then got a new Mercedes while she's dating Bob. The new
3 Mercedes she got, which the government alleges José Uribe paid
4 for or helped pay for, was obtained on April 5, 2019, one day
5 after the date that's recorded here on the purchase document.
6 April 5, 2019. Again, this is just one year into their dating,
7 a year before he even moves in and more than a year and a half
8 before they get married.

9 So when Nadine drives home with a Mercedes, there's
10 nothing surprising in that. Why? Because Bob understood that
11 Nadine comes from a family with some money. The evidence will
12 show that Nadine's family was in the Persian rug business and
13 was able to afford nice homes and nice cars. Nothing about
14 that would be surprising to Bob for Nadine to come home with a
15 car. And there's no document, ladies and gentlemen, that shows
16 that Bob understood José Uribe paid for that car. None.

17 In fact, and I mentioned this earlier, José Uribe will
18 acknowledge to you, I think, that he never discussed paying for
19 a car or that car with Bob. Indeed, when Bob learned of the
20 car payments from Uribe, he was told that the payments were a
21 loan. And what did Bob do? He insisted that Nadine pay Uribe
22 back. He did the same with respect to the mortgage that he
23 learned about that Will Hana gave as a loan. He insisted that
24 that get paid back.

25 Why did he do that? Not because he was looking to

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1 obstruct justice, as the government alleges. He insisted on
2 paying back the loans because he didn't want Nadine to be
3 beholden to these individuals after they get married, and he
4 didn't want the hassle of having to amend his Senate disclosure
5 forms to disclose these loans. So there was nothing, no effort
6 to obstruct justice here. In fact, you will hear his lawyer
7 told him we're going to have to disclose to the federal
8 government that she repaid those loans and you helped her repay
9 those loans. And Bob says let's do that.

10 Now, the third part of the scheme is a scheme that
11 involves, as the government alleged, Fred Daibes. I want to
12 tell you about that story that they told you.

13 They told you a story about how the senator agreed to
14 recommend a particular individual. They didn't provide his
15 name, but his name is Phil Sellinger. And the allegation is
16 that the senator agreed to recommend this man Phil Sellinger to
17 President Biden to be the United States Attorney because they
18 thought that he would more favorably dispose of Fred Daibes's
19 other case that was pending in New Jersey.

20 Well, the evidence will show that there was no bribe
21 to nominate U.S. Attorney Sellinger; that Senator Menendez
22 chose Sellinger based on his merits. He was a highly qualified
23 lawyer in New Jersey for the job and that the nomination had
24 nothing to do with Daibes's case. In fact, you'll learn that
25 Phil Sellinger wasn't even the senator's first choice to be

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1 U.S. Attorney. His first choice was a woman named Esther
2 Suarez, who was, again, a very eminently qualified candidate.
3 She was a former state judge and top county prosecutor in
4 Hudson County. She was a historic candidate. She was also the
5 first woman and the first Latino woman to be chosen for U.S.
6 Attorney. And as you will learn, Esther Suarez was a bit of a
7 lightning rod candidate. There was bad press about her so the
8 White House pulled her nomination, and thereafter, Senator
9 Menendez recommended Phil Sellinger.

10 And you'll learn that Bob and Phil Sellinger were
11 actually friendly. He was a well-respected lawyer. Phil
12 Sellinger was even at Bob's wedding. He was highly, highly
13 qualified for the job. And you'll learn about a conversation
14 between Bob and Sellinger regarding Fred Daibes, but it is not
15 the conversation the government told you about. Rather, the
16 evidence will show that Bob was concerned that Sellinger was
17 biased -- biased -- against Fred Daibes. Why? Because
18 Sellinger had a conflict. Sellinger and his former law firm
19 had sued and were in the process of a lawsuit against Fred
20 Daibes. Sellinger was actively involved in drafting that
21 lawsuit and filing it against Fred Daibes. So Bob wanted to
22 make sure that his nominee wouldn't hit a snag based on a
23 conflict in a pending case in that very district.

24 That's not corruption, ladies and gentlemen. That's
25 what we call the vetting process, when you vet your candidate

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1 before nominating that candidate to the president.

2 You'll see clear evidence that the senator just wants
3 to make sure that the U.S. Attorney's Office gave Fred Daibes
4 due process, the exact same thing that prosecutors all over the
5 land are required to give their defendants. Does that sound
6 like someone putting a thumb on the scale of justice? Not even
7 close, ladies and gentlemen. It's exactly what you would hope
8 a senator or the United States Attorney or the Attorney General
9 of the United States would demand of the prosecutors, to give
10 defendants due justice, due process, excuse me.

11 Indeed, Bob was right to be concerned about the
12 Sellinger conflict. He was right. As you will learn, even the
13 Department of Justice agreed that Sellinger's prior lawsuit
14 against Fred Daibes posed a conflict of interest that required
15 Sellinger to remove himself from the case. So Bob was right to
16 be concerned, and he raised it with Phil Sellinger in a
17 transparent way. That's his job.

18 And how do you know that Bob wasn't trying to put his
19 thumb on the scale of justice in favor of Fred Daibes? Because
20 Bob had a call with the person who took over the supervision of
21 this case --

22 Next slide, please.

23 -- a man named Vikas Khanna. He was Phil Sellinger's
24 deputy, his No. 2, and when Phil Sellinger was removed from the
25 case, Vikas Khanna took over. What did Bob say about the

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1 Daibes case when he spoke to him? Nothing. He didn't say
2 anything. He congratulated Vikas Khanna on his promotion and
3 getting the job. He also paid a compliment to Khanna's
4 brother, who's a California congressman. He didn't mention
5 Daibes by name, not even once, in this entire call, and Vikas
6 Khanna never knew that Daibes knew Senator Menendez. So not
7 surprisingly, when the prosecution of Daibes was resolved, it
8 had absolutely nothing to do with Senator Menendez. The line
9 prosecutors were not told of any relationship between Senator
10 Menendez and Daibes or any outreach from Menendez or anybody
11 else to either Sellinger or Vikas Khanna. Plea offers were
12 made to Fred Daibes on the merits of the case. That's it.

13 Ask yourself, does this sound like a public corruption
14 scheme and obstruction of justice by a U.S. senator? It's not
15 even close.

16 The government has shifted as well to another theory.

17 MS. POMERANTZ: Objection.

18 THE COURT: Sustained. You can state what you believe
19 the government theory is.

20 MR. WEITZMAN: Correct, your Honor.

21 The government has another bribery theory involving
22 Daibes, that in exchange for gold bars and cash, Bob introduced
23 Fred Daibes to Qatar as a potential investor in a project that
24 Fred Daibes was developing and that Bob and Fred Daibes
25 discussed some sort of Senate resolution thanking Qatar and

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1 then Bob issued some press releases praising Qatar. The
2 evidence here, again, will show that Bob acted lawfully,
3 appropriately and entirely for the benefit of New Jerseyans,
4 not in exchange for any bribe. As I mentioned, Bob and Fred
5 have known each other for 30 years. Bob was the mayor the
6 Union City when Fred was just a young aspiring developer.
7 Daibes eventually became one of the biggest developers in
8 Edgewater, New Jersey.

9 These are some of the buildings that Fred Daibes
10 developed in Edgewater, New Jersey. There was one real estate
11 project that was in the works, and it was truly going to be
12 groundbreaking in Edgewater, New Jersey. This is a rendering
13 of the River Road project that Daibes was developing, and this
14 was a big project. It was a first of its kind development in
15 Bergen County, New Jersey. And it was going to employ
16 thousands of construction workers in New Jersey. The project
17 was envisioned to house 2,000 apartments across four towers
18 rising 700 feet into the air. It would result in the
19 development of these beautiful towers overlooking the Upper
20 West Side of Manhattan, waterfront towers, that was going cost
21 \$1 billion and lead to a lot of spending, a lot of
22 construction, a lot of materials, supplies and employees that
23 were good for the city of Edgewater and the state of New
24 Jersey.

25 Fred Daibes was the principal developer of that

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1 project. Unfortunately, after he was charged in another case,
2 he lost one of his large investors, and when he asked Bob
3 whether he knows of any potential investors, his timing
4 couldn't be better, because Bob had just been approached by an
5 investment fund called Heritage Advisors and asked whether he
6 was aware of any potential investments in the United States.
7 So Bob made an introduction: Heritage Advisors, meet Fred
8 Daibes. Fred Daibes, meet Heritage Advisors. Nothing wrong
9 with that; that's what senators do day in, day out. But let me
10 tell you a bit about Heritage Advisors, because this is where
11 the government's story collapses.

12 It's an investment fund in London. It invests the
13 assets of a particular member of the royal family of Qatar, a
14 man named Sheikh Sultan Al Thani. It has a portfolio of nearly
15 \$1 billion with real estate and other investments in the United
16 States and elsewhere. Heritage Advisors does not invest or
17 receive any money through the Qatari government, and it is not
18 affiliated with the Qatari government. The government will not
19 be able to prove otherwise.

20 After Bob introduced Heritage Advisors to Daibes, the
21 evidence will show that Heritage conducted a lot of due
22 diligence on the potential investment. It hired U.S.-based
23 lawyers and financial advisers and consultants and architects
24 to analyze the project. Heritage was aware that Daibes had
25 been charged in New Jersey. They didn't mind. They actually

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1 thought it gave them a bit of leverage in the negotiations.

2 But after a year of due diligence, Heritage Advisors decided,
3 based on its own, independent evaluation of the project, that
4 it wanted to invest in this beautiful waterfront community in
5 Edgewater, New Jersey.

6 Nevertheless, the government argues that Daibes bribed
7 Senator Menendez to issue two press statements that are
8 favorable to Qatar. The evidence will show that these
9 allegations are false. For example, on the press statements,
10 the government suggests that Menendez issued these public
11 statements thanking Qatar in order to incentivize Heritage to
12 invest with Daibes. There will be no evidence of that, ladies
13 and gentlemen. You'll see those public statements. Again,
14 there will be nothing surprising about any of them. For
15 example, one of them just thanks Qatar for helping rescue
16 thousands of U.S. citizens and vulnerable Afghans and their
17 families following the Taliban's takeover of Afghanistan. It
18 didn't recommend any aid or trade or arms or money or anything
19 else for the state of Qatar. It didn't in any way alter the
20 relationship between the United States and the state of Qatar.
21 In fact, it's the exact same type of public statement that
22 public service politicians in the United States were falling
23 all over themselves to make. You'll see other statements
24 similar in kind from the secretary of state and the secretary
25 of defense.

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1 But here's the more important part. There will be no
2 evidence presented in this case -- zero -- that the senator's
3 statements regarding Qatar influenced Heritage to invest in the
4 development project at all. It was irrelevant to them. There
5 will be no evidence -- zero -- provided by the government that
6 shows that the Qatari government was even involved in Heritage,
7 knew about the Heritage investment in Daibes's project or cared
8 about it. Zero. The fact that there was one member of the
9 royal family who owns Heritage and founded Heritage, that
10 doesn't mean it's owned by the government of Qatar. The royal
11 family, the Al Thani clan, the family, they're thousands large
12 in Qatar, thousands and thousands.

13 THE COURT: How much longer do you have, sir?

14 MR. WEITZMAN: One and a half pages.

15 THE COURT: Sir.

16 MR. WEITZMAN: Thank you, your Honor.

17 Ladies and gentlemen, thank you. On behalf of both
18 Adam fee and myself, I want to thank you. This is the
19 conclusion of my opening and the beginning of the trial.

20 I want to thank you in advance for your willingness to
21 sit here and pay attention to the evidence. It's going to be a
22 long trial, and we thank you. We want to thank you in advance
23 for agreeing to do justice impartially, mutually, fairly,
24 without passion or prejudice and based on your review of all
25 the evidence by both sides. Thank you.

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1 And I want to thank you in advance for agreeing to
2 perform the hard task of evaluating each defendant and
3 individual individually. Whenever you see a document that says
4 Nadine or Hana or Daibes, ask yourself, where's Bob? We will
5 be spending the next several weeks together, and then you will
6 deliver a verdict. After you leave this courtroom, this case
7 will be behind you. You won't forget about it, but you also
8 won't be living with the weight of your judgment day in and day
9 out.

10 MS. POMERANTZ: Objection.

11 THE COURT: Sustained. Sustained, sir.

12 MR. WEITZMAN: You have a man's lifetime of public
13 service in your hands. This case has and will affect him for
14 the rest of his life.

15 MS. POMERANTZ: Objection.

16 THE COURT: Ladies and gentlemen, your decision here
17 is to be based on the evidence you are going to hear, nothing
18 else, and you are to determine whether the government has met
19 its burden of proof; that is, it has to prove each defendant
20 guilty beyond a reasonable doubt. The issue of punishment or
21 the result of any finding on your part are up to me.
22 Punishment is for me, not for you, ladies and gentlemen. Your
23 job is to determine whether the government has met its burden
24 of proof.

25 Sir.

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1 MR. WEITZMAN: Yes.

2 So you have a man's lifetime of hard work in your
3 hands.

4 MS. POMERANTZ: Objection.

5 THE COURT: Same.

6 Proceed.

7 MR. WEITZMAN: When you go back to the jury room at
8 the end of the case, all we ask is that you fulfill your solemn
9 oath and that you give the decision you face the weight, the
10 consideration, the deliberation it deserves.

11 Thank you.

12 THE COURT: All right. Thank you, Mr. Weitzman.

13 Ladies and gentlemen, it's 4:30. I want to give you a
14 break -- I always do a break when we can -- so you can refresh
15 yourselves. Please just do that and come back.

16 Now, we have two more openings that will last until
17 about 5:30.

18 Let Ms. Blakely know whether the jury can stay until
19 5:30. If it can't, we'll only have one opening and we'll end
20 just around 5 o'clock. But it's in the interest of everybody
21 to move the case along, and if you can stay for two openings --
22 that is, the remainder of the openings -- so much the better.

23 I don't mean to pressure you. There shouldn't be any
24 disputation within the jury. Just let Ms. Blakely know.

25 Thank you.

(Continued on next page)

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1 (Jury not present)

2 THE COURT: Please be seated.

3 Mr. Weitzman, my concern with your opening is you were
4 constantly putting your own credibility at issue. That's not
5 for this jury. I mean it's interesting that you're one of a
6 twin. I didn't know that. There was something else about
7 Holocaust survivors. Your personal story is not for this jury.
8 What's for this jury is whether or not the government has met
9 its burden of proof. So just stick to the evidence. That's
10 what I was trying to get you to do.

11 MR. WEITZMAN: I understand, your Honor.

12 THE COURT: All right. Thank you. Take ten minutes,
13 if the jury is ready.

14 (Recess)

15 THE COURT: All right. Lawyers take your places. The
16 jury is ready to come in.

17 There are several members of the jury who have
18 child-care issues, so we'll break at five or as soon after as
19 the closing is finished. The estimate that Mr. Lustberg gave
20 me was a half hour.

21 Is that still what it is, sir?

22 MR. LUSTBERG: Yes, but your Honor, I'm watching the
23 jury, and I do think that there are some very tired members of
24 the jury. And I'm concerned with starting my opening at what's
25 going to be quarter till five. If you're asking me, and I know

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1 you're not, what my preference would be at this point, it would
2 be that rather than start and get to five where they really
3 want to leave and not be done, which I don't think I would be
4 done by five, I would rather just start fresh in the morning.

5 THE COURT: Let's try and get in as much as we can.
6 We'll end at five. If you're not finished, you're not
7 finished.

8 All right.

9 Let me see what the position of the parties is. I
10 shouldn't do that unilaterally.

11 MR. FEE: Your Honor, for what it's worth, we think we
12 should not break up Mr. Lustberg's opening.

13 THE COURT: I would assume that.

14 MS. POMERANTZ: We don't have an objection, your
15 Honor.

16 THE COURT: All right. Thank you.

17 Then I'll bring them in and we'll end now. I always
18 like to get the views of the parties.

19 (Continued on next page)

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1 (Jury present)

2 THE COURT: Please be seated in the courtroom.

3 Ladies and gentlemen, my deputy has told me some
4 members of the jury have child-care issues, so we're going to
5 end at five. Rather than have one of the closings be rushed
6 and keeping you through the process, we're going to break now.
7 All right?

8 So there will be two closings tomorrow, which will
9 start as soon as you come in. Please be here by 9:30.
10 Remember to leave time for getting through security. You'll
11 have your cards that will enable you to get to the head of the
12 line.

13 Don't come into this courtroom. Come into the jury
14 deliberation room, where you were. That's the jury
15 deliberation room for courtroom 23A.

16 Keep an open mind. You still haven't heard one word
17 of evidence. This is just the lawyers' views as to what they
18 think the evidence will show. Don't listen to any of the media
19 information, if there is any, about this case. Don't talk to
20 anybody.

21 Keep an open mind. Enjoy the evening. This jury is
22 relieved now until 9:30 tomorrow. And again, we can't begin
23 until all 18 of you are here, so please be courteous.

24 (Continued on next page)

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1 (Jury not present)

2 THE COURT: All right. 9:30 tomorrow. Thank you.

3 MR. FEE: Your Honor, we have one item.

4 THE COURT: Yes.

5 You may be seated in the courtroom.

6 MR. FEE: Sorry to keep everyone a bit longer, your
7 Honor.

8 The reference relates to Ms. Pomerantz's opening.

9 THE COURT: Yes.

10 MR. FEE: We believe the government violated the
11 speech and debate orders the Court has given in two ways, and
12 I'll read from the transcript, your Honor.

13 First, Ms. Pomerantz stated: "Menendez texted Nadine
14 to tell Hana he," meaning Menendez, "was going to sign off on
15 or approve the sale of almost \$100 million of tank ammunition."

16 Your Honor, that's one, and I don't think that's a
17 close call. That is describing, as the Court put it, the
18 actions Menendez allegedly took as a senator in deciding
19 whether or not to place a hold on foreign aid to Egypt, and the
20 Court called those legislative acts.

21 That's reading from your opinion, your Honor.

22 THE COURT: Just a moment.

23 But discussions leading up to a role where a signing
24 off are not legislative acts.

25 MR. FEE: That's not what it says, your Honor.

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1 THE COURT: You're right.

2 MR. FEE: She said he was going to sign off, period.
3 And speech and debate is not like attorney-client. You don't
4 waive it by telling it to your wife. In fact, everything you
5 do in the Senate is known to third parties, for the most part.

6 This is directly violative of the Court's order and
7 actually merits a mistrial.

8 THE COURT: All right. I'll hear from the other side.

9 MR. FEE: Your Honor, I have one more point. I don't
10 know if you want to address them both at the same time.

11 THE COURT: Yes.

12 MR. FEE: This is also reading from the transcript.

13 THE COURT: Just let me read it.

14 MR. FEE: Of course.

15 THE COURT: Yes, sir.

16 MR. FEE: This is Ms. Pomerantz again: "And he,"
17 meaning Fred Daibes, "was hoping for a multi-million dollar
18 investment from a company connected to another foreign
19 government, a government in another Middle Eastern country,
20 Qatar. Menendez had power over U.S. policy about Qatar, not
21 just Egypt, so Daibes bribed Menendez for that too. Daibes
22 suggested ways that Menendez could help Qatar" -- and here's
23 the key sentence, again, her words: "Like by supporting a
24 Senate resolution praising Qatar. And so Menendez took the
25 gold and he took the cash, knowing Daibes wanted to take those

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1 actions."

2 Your Honor, this is exactly what Mr. Richenthal said
3 the government was not going to do minutes before Ms. Pomerantz
4 said that Senator Menendez supported a Senate resolution
5 praising Qatar in exchange for gold and cash. This is sword
6 and shield that the government is doing, and despite
7 Mr. Richenthal's reaction, this does merit a mistrial.

8 MR. RICHENTHAL: Would your Honor like me to respond?

9 THE COURT: Just a moment.

10 I am concerned about praising Qatar when you were
11 saying earlier that the substance of the resolution would not
12 be mentioned. That is true. I want to hear briefly about the
13 first one, but let's start with the second one.

14 MR. RICHENTHAL: This is actually entirely consistent
15 with what I said, which is that Mr. Daibes transmitted
16 information to Mr. Menendez -- I even quoted the exact title of
17 the resolution -- with the hope and expectation that
18 Mr. Menendez would take action thereon. And what I said was we
19 did not intend to prove any action of any kind was ever
20 undertaken. This is directly from the indictment, and it's
21 exactly what Ms. Pomerantz said: "Mr. Daibes suggested ways,"
22 I'm quoting, "Menendez could help Qatar, like supporting a
23 Senate resolution. In other words, Daibes suggested things
24 Menendez could do."

25 And then Ms. Pomerantz --

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1 THE COURT: Just a moment. Just a moment.

2 Yes. Go ahead.

3 MR. RICHENTHAL: And then Ms. Pomerantz did exactly
4 what I said we've always alleged and intended to do -- "shifted
5 from what Daibes wanted," to use her words, "what he suggested,
6 to payment and Menendez taking payment, knowing what Daibes
7 wanted."

8 Those are the next two lines. That's exactly what I
9 said. It's exactly what's alleged in the indictment. It does
10 not get into a single thing Menendez ever did, other than
11 accept payment, which is not a legislative action.

12 THE COURT: No, but it's describing the substance of
13 the Senate resolution; that is, it praised Qatar.

14 MR. RICHENTHAL: It describes that Daibes suggested
15 things Menendez could do, such as a Senate resolution praising
16 Qatar. It does not say there was even a resolution, and it
17 certainly does not say what Mr. Menendez did with respect to
18 such resolution.

19 THE COURT: Give me the quote from Ms. Pomerantz
20 regarding Senator Menendez supporting a Senate resolution
21 praising Qatar.

22 MR. RICHENTHAL: I'm sorry?

23 THE COURT: Give me the quote from Ms. Pomerantz's
24 opening in regard to Menendez supporting a Senate resolution
25 praising Qatar.

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1 MR. RICHENTHAL: So, it doesn't say he supported the
2 Senate resolution. It says, and I'm now going to quote the
3 three sentences in a row, because that's the whole point.
4 Actually, it's two full sentences. Forgive me.

5 "Menendez had power over U.S. policy about Qatar, not
6 just Egypt, so Daibes bribed Menendez for that too. Daibes
7 suggested ways Menendez could help Qatar, like supporting a
8 Senate resolution praising Qatar."

9 THE COURT: Just a moment.

10 Go ahead.

11 MR. RICHENTHAL: In short, as I said, the allegation
12 is, and has long been -- it's in the indictment -- Daibes
13 suggests to Menendez things Menendez can do, including a
14 resolution with respect to Qatar.

15 THE COURT: All right. Fine.

16 MR. RICHENTHAL: And Menendez takes payment. That's
17 it.

18 THE COURT: Thank you.

19 Sir.

20 MR. FEE: Your Honor, it is forcing us to waive. The
21 Court was concerned about the inference suggested --

22 THE COURT: No, but it's consistent with what
23 Mr. Richenthal was saying, that it was Daibes saying that it
24 would help Daibes if Menendez supported Qatar, such as
25 supporting a resolution praising Qatar.

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1 MR. FEE: This is angels dancing on the head of a pin
2 with this theory, your Honor. There is zero percent chance
3 that the jury is not going to infer from this that Ms.
4 Pomerantz was arguing to them that Senator Menendez supported
5 Qatar. I hear the prosecutors repeat it again and again. They
6 are injecting this case with that inference, No. 1, forcing us
7 to waive. And No. 2, we think there will be a righteous
8 outcome, but the record in this, for appellate reasons, I think
9 it's impossible to discern the theory the government is now
10 operating on. To pretend that that inference is not being
11 suggested is naïve.

12 THE COURT: OK.

13 MR. RICHENTHAL: I'm sorry. It's literally the same
14 allegations. I'm actually going to read the final sentence in
15 the paragraph, because I think it hammers home how precise we
16 have been ever since we brought --

17 THE COURT: Maybe you're coming too close to the line
18 in terms of the inference that you're seeking, but go ahead.

19 MR. RICHENTHAL: With respect, your Honor, we're
20 actually not asking the jury to draw any inference at all.
21 We're going to prove literally, not circumstantially --
22 literally -- that Daibes suggested this very thing and Menendez
23 took payment. We're not asking the jury to infer anything, and
24 the reason I wanted to quote Ms. Pomerantz's final sentence in
25 the paragraph is because we're trying to not even come close to

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1 the line. If I may? The final sentence, before she switches,
2 is, and I'm quoting now: "And so Menendez took the gold and he
3 took the cash, knowing Daibes wanted him to take those
4 actions." Period.

5 Nothing else was said about any actions at all.

6 MR. FEE: Your Honor, only lawyers could come up with
7 this theory. He took the gold, he took the cash, knowing
8 Daibes wanted him to support a resolution praising Qatar.
9 They're alleging he took the cash to praise Qatar. It's only a
10 lawyer's mind.

11 THE COURT: No. No, sir. When we're dealing with
12 speech and debate, the difference is what is a legislative act
13 and what isn't. And there's no legislative act that's in the
14 record here. The motion for a mistrial is denied on the second
15 basis.

16 Let's turn to the first basis.

17 MR. RICHENTHAL: So, I don't have the case --

18 THE COURT: But watch the line, government. Watch the
19 line that you're dealing with when the evidence comes in on
20 this Qatar resolution.

21 MR. RICHENTHAL: Understood, your Honor.

22 THE COURT: What's permissible is Daibes suggesting
23 ways and, if it's the case, then there was the receipt of
24 money. But, yes, leave it at that. If there's a promise here,
25 then you're getting into a speech or debate.

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1 Go ahead.

2 MR. RICHENTHAL: I think the devil's in the details,
3 so I don't want to go beyond this colloquy.

4 THE COURT: No, I'm sorry. I shouldn't say if there's
5 a promise, then you're getting into speech and debate. That
6 was a little too far.

7 Go ahead.

8 MR. RICHENTHAL: And that's why I reacted that way.

9 To go to the other statement, there are numerous
10 Supreme Court cases that have made a very important and
11 granular point, and here's the point. A promise or statement
12 of an action not yet undertaken, irrespective of the nature of
13 the action, is not a legislative act.

14 THE COURT: That's true. I can substantiate that;
15 that is my understanding of the law.

16 Go ahead.

17 MR. RICHENTHAL: And that is why what Ms. Pomerantz
18 said --

19 THE COURT: Promises are not legislative acts.
20 They're not within the core of speech or debate protection.
21 Yes.

22 MR. RICHENTHAL: Yes.

23 THE COURT: Next.

24 MR. RICHENTHAL: Which is why what Ms. Pomerantz said
25 wasn't even close to the line. What she said, which is also in

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1 the indictment, is that Mr. Menendez told Mr. Hana, through
2 Nadine Menendez, what Mr. Menendez was going to do,
3 future-oriented. Not a word was said about whether he, in
4 fact, did anything at all ever. That is not even close to the
5 line under multiple Supreme Court cases and this Court's
6 decision.

7 THE COURT: Let's go to No. 1. You have my denial of
8 the motion for a mistrial on No. 2.

9 Let's go to No. 1.

10 MR. RICHENTHAL: I'm sorry. I was speaking about No.
11 1, although I think it bears on both. I can quote Ms.
12 Pomerantz said it's future-oriented, which is why I made those
13 remarks.

14 I'm now going to quote starting with the words "for
15 example" on line 10:

16 "For example, the day after the meeting with Egyptian
17 military officials, Menendez texted Nadine to tell Hana he was
18 going to sign off on or approve the sale of almost \$100 million
19 of tank ammunition to Egypt."

20 Now, to be clear, that sentence in and of itself is,
21 as I said, future-oriented. But as your Honor just said a
22 minute ago in our back-and-forth, and I wholeheartedly agree,
23 it would actually be OK if it weren't. It would be perfectly
24 fine for him to tell an outside party things he intends to do;
25 for that matter, things he has not done. Those aren't holds.

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1 Those are statements to outside parties about actions. They
2 may be true. They may be false. In fact, as the Court knows,
3 there are stings involving public officials in which public
4 officials promised to take action or say they have take action
5 or say they will take action in return for money.

6 The fact that if they did those things the government
7 could not prove the actual action has never been understood to
8 prevent a sting or prevent a prosecution based on the
9 statements. In fact, your Honor's opinion has a section about
10 this very point. The reason I was focusing on this sentence
11 being future-oriented is because it's future-oriented it
12 doesn't even really get into those cases because it's not even
13 talk about historical fact at all, although my point is it
14 would be OK if it did.

15 THE COURT: Mr. Fee.

16 MR. FEE: It's not future-oriented. This is how Ms.
17 Pomerantz talked about it:

18 "So let's start by talking about what Menendez did.
19 Between 2018 and 2022, Menendez met again and again with
20 Egyptian officials," a couple other sentences.

21 THE COURT: That's all OK.

22 MR. FEE: That's not OK, because she says, let's talk
23 about just three examples of how Menendez helped Egypt. Let's
24 talk about what he did, how he helped Egypt.

25 First was the sensitive information. Second was ghost

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writing a letter, and then third is, again, the language we are pointing to, that Menendez texted Nadine to tell Hana he was going to sign off on \$100 million of tank munitions. You see what is going on. This is argument for the jury to understand that he did it and he helped Egypt. Those are her words. He did, what he did, and how he helped Egypt.

They're going to stand up and say, well, what he did was make a future-looking promise. The line is untenable. We have no choice, given the clear implication -- it's not even an implication, because she said he helped Egypt. The only way to help Egypt is by actually approving that aid. Making a promise to somebody doesn't help Egypt. That's what she's arguing to the jury. We have to waive to meet these allegations.

MR. RICHENTHAL: I confess to sincerely being puzzled. Of course it helps Egypt to give them an inside track in Washington. Ms. Pomerantz actually said that.

And how do you give people an inside track? You give them information. You give them advance warning. You tell them about things.

The Court's decision is crystal clear. None of that is speech or debate. What would be is if we said you know how he helped Egypt, he actually approved weapons. She didn't even come close to saying that. All of these things are conversations with third parties, which the Court ruled crystal clear in a published decision is not speech and debate.

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1 If Mr. Fee, in the event that his client's convicted,
2 wishes to appeal and ask the Second Circuit to dispute the
3 Court's decision, he has that right. But this Court already
4 ruled on this. This is not a legislative act.

5 THE COURT: Sir.

6 MR. FEE: Your Honor, I don't agree with this
7 characterization of the argument, and if you need that many
8 words to explain why he didn't violate a rule, I don't think
9 it's clear. They are toeing the line.

10 THE COURT: The number of words goes back and forth
11 here.

12 MR. FEE: My words are shorter, your Honor.

13 THE COURT: Let's not count the words.

14 MR. FEE: Yes, your Honor.

15 THE COURT: Because it seems to me that Mr. Richenthal
16 has the better part of the argument. Clearly the argument is
17 he was helping Egypt, but the sorts of things that you're
18 talking about are not core speech and debate. Again, core
19 speech and debate is clearly not limited to things that are on
20 the floor of the Senate -- that's true -- and not limited but
21 certainly include Senate resolutions, committee meetings,
22 committee hearings, so forth. And the cases say you don't
23 interpret speech and debate overly narrowly. But it seems to
24 me we're far away from core speech and debate because what the
25 government is saying is, yes, he was helping Egypt, but that's

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1 not core speech and debate.

2 Sir.

3 MR. FEE: You nailed it, your Honor. Speech and
4 debate cannot be construed narrowly. This is so narrow that
5 you can barely see it from the side. They are saying he did
6 things to help Egypt. Here's how he helped Egypt. Three
7 things.

8 THE COURT: Yes, but so far, everything you've said
9 does not implicate legislative act.

10 MR. FEE: It does, your Honor. They are going to
11 suggest in he approved and lifted that hold to help Egypt.

12 THE COURT: It's evidence of the hold itself that's
13 the legislative act.

14 MR. FEE: This is evidence of the hold. They're going
15 to put in a text that he sent to Nadine that she forwarded to
16 an Egyptian officer with a clear implication that he's
17 delivering on the promise. That is the argument the government
18 is making. They are making a hypertechnical argument that
19 offends the speech and debate privilege.

20 THE COURT: All right.

21 Last, government.

22 MR. RICHENTHAL: I'll try and be short.

23 That's not true under the Court's decision. The
24 motion should be denied.

25 THE COURT: I'm denying the motion for a mistrial.

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1 There's no basis for a mistrial here. What they're talking
2 about is not core speech and debate.

3 See everyone tomorrow at 9:30.

4 MR. FEE: Thank you, your Honor.

5 (Adjourned to May 16, 2024, at 9:30 a.m.)

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